

Court No. - 47

Case :- WRIT - C No. - 40242 of 2023

Petitioner :- Kanta Devi

Respondent :- State Of U.P. And 5 Others

Counsel for Petitioner :- Prashant Yadav,Rajeev Kumar

Counsel for Respondent :- C.S.C.,Krishna Kant Singh,Sanjay Kumar Om

Hon'ble Manish Kumar Nigam,J.

1. Learned Counsel for the petitioner is permitted to make correction in the prayer clause of the writ petition during the course of the day.
2. Heard learned Counsel for the parties and perused the record.
3. The present petition has been filed for the following relief:

"(a) Issue a writ, order or direction in the nature of mandamus commanding/directing the respondents not to construct the over head water tank, garbage and boundary wall over the land of the petitioner i.e. Gata No.812/1.40 decimal or 0.568 hectare situated in the village Nagala Seva, Majara Majhrau, Pargana Marhara, Tehsil and District Etah, till the final disposal of Suit No.D201818210000242 (Smt. Kanta Devi Vs. Kunvar Pal and other) in respect of the land in question pending before the learned Additional Collector (Administration) Etah.

(b) Issue a writ order or direction in the nature of Mandamus commanding the respondent authorities not to interfere in the peaceful possession of the petitioner over the land Gata No.812/1.40 decimal or 0.568 hectare situated in the village Nagala Seva, Majara Majhrau, Pargana Marhara, Tehsil and District Etah."

4. Contention of learned Counsel for the petitioner is that the application moved by the petitioner under Section 198(4) of the U.P.Z.A. & L.R. Act was allowed by the order dated 8.8.2016. Restoration application filed by the opposite party was rejected by the order dated 22.9.2018. Against both the orders, a revision was filed by the allottees, which was allowed and the matter has been remanded by the revisional court by the order dated 19.2.2020 and the proceedings are pending. It has been further contended that when the application under Section 198(4) was allowed, it was directed that the land may be recorded in the name of Gaon Sabha and taking advantage of this fact, Gaon Sabha is trying to raise a construction over the land of the petitioner. In the pending proceedings, the petitioner has moved an application on 20.9.2023 for interim stay directing the parties to maintain status quo, which is pending consideration.

5. No useful purpose would be served in keeping this petition pending.

6. Considering the facts and circumstances of the case, without expressing any opinion on the merits of the case, the present petition stands disposed of finally with a direction to the respondent No.2, Addl. District Magistrate (Administration), Etah to consider and decide the application for interim relief dated 20.9.2023 filed by the petitioner in accordance with law within a period of one month from the date of production of certified copy of this order after giving opportunity of hearing to the parties concerned provided that there is no other legal impediment.

7. Till the disposal of interim stay, parties are directed to maintain status quo.

8. This order is being passed in the presence of Sri Krishna Kant Singh and Sri Akash Chandra, Advocate holding brief of Sri Sanjay Kumar Om, learned Counsel for the respondents.

Order Date :- 1.12.2023

S. Singh