

Court No. - 21

Case :- WRIT - C No. - 40270 of 2023

Petitioner :- Chandresh Jain And Another

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Chandan Sharma, Shubham Tripathi

Counsel for Respondent :- C.S.C.

Hon'ble Manoj Kumar Gupta, Acting Chief Justice

Hon'ble Kshitij Shailendra, J.

1. The instant petition has been filed by the petitioners praying for a writ of *mandamus* commanding the respondents not to dispossess them except in accordance with law and after taking recourse to acquisition proceedings under the provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.
2. The case of the petitioners is that a piece of land devolved on them by testamentary succession pursuant to a will executed by Smt. Sushila Devi Jain on 06.09.1974. She had inherited the said property from Babu Banarasi Das Jain, who had purchased it by sale deed dated 05.08.1912. The respondents are constructing police quarters over the aforesaid land of the petitioners.
3. Shri Rajiv Gupta, learned Additional Chief Standing Counsel is in receipt of written instructions from the respondents in pursuance of our previous order. A copy of the written instructions has been supplied to the learned counsel for the petitioners. In paragraph no.10 of the written instructions, the specific case taken by the respondents is that the land over which constructions are being raised is Nazul land and as per Nagar Palika records, it bears No.2924 and 3012. Copy of the Nagar Palika Property register has been annexed to establish the said fact. The specific case is that the petitioners have no title over the aforesaid land. The alleged sale deed dated 05.08.1912 in favour of the ancestors of the petitioners does not specify any plot number and is completely vague.
4. Be that as it may, we are of the opinion that the issues raised in the instant writ petition cannot be decided in exercise of writ jurisdiction as it requires appreciation of evidence. We, therefore, **dispose of** the instant petition with liberty to the petitioners to avail such other remedy as may be advised.

(Kshitij Shailendra, J.) (Manoj Kumar Gupta, A.C.J.)

Order Date :- 13.12.2023

Ankit.