

Court No. - 21

Case :- WRIT - C No. - 40156 of 2023

Petitioner :- John Josheph

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Raj Kumar Mishra, Sanjay Shukla

Counsel for Respondent :- C.S.C., Tanisha Jahangir Monir

Hon'ble Manoj Kumar Gupta, Acting Chief Justice

Hon'ble Donadi Ramesh, J.

1. Heard learned counsel for the petitioner, Sri Rajiv Gupta, learned Additional Chief Standing Counsel for respondent no.1, Ms. Tanisha Jahangir Monir, learned counsel for respondent nos.2 and 3.

2. The petitioner has challenged the notice dated 18.10.2023 issued by Executive Engineer, Nagar Nigam, Ghaziabad (respondent no.2), requiring the petitioner to remove the alleged encroachment made by him over public road in Ward No.9, Son Bazar within a week, failing which Nagar Nigam, Ghaziabad, would remove the same itself and recover cost thereof from the petitioner.

3. The case of the petitioner is that he is owner of piece of land through sale deed dated 8.7.1968. Pakka constructions of the petitioners are in existing over the said land since 1970. The constructions have been duly assessed to house tax and is being paid by the petitioner to Nagar Nigam Ghaziabad. Without any opportunity of hearing, the respondents have issued the impugned notice. The petitioner has submitted a detailed reply on 31.10.2023 to respondent no.2 but without deciding the same, respondents are threatening to demolish the house of the petitioner.

4. Ms. Tanisha Jahangir Monir, learned counsel for respondent nos.2 and 3 fairly states that the objection filed by the petitioner shall be decided by respondent no.2 within such time frame as may be directed by this Court.

5. Accordingly, without expressing any opinion on merits of the case, the petition is **disposed of** with direction to respondent no.2 to consider and pass a speaking order on the objection of the petitioner dated 31.10.2023 within a period of three weeks from the date of communication of the instant order along with

photocopy of the objection and until the decision is taken, the impugned notice be kept in abeyance.

6. The petitioner shall file a true copy of the instant order along with photocopy of the objection before respondent no.2 within two weeks, failing which protection granted to the petitioner by the instant order would stand discharged automatically and it shall be open to the respondents to proceed further in accordance with law.

(Donadi Ramesh, J.) (Manoj Kumar Gupta, A.C.J.)

Order Date :- 22.11.2023

rkg