

Court No. - 40

Case :- WRIT - C No. - 40306 of 2023

Petitioner :- Mohd. Akram Ali And Another

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

Counsel for Petitioner :- Sarvanand Pandey

Counsel for Respondent :- C.S.C

Hon'ble Mahesh Chandra Tripathi,J.

Hon'ble Prashant Kumar,J.

1. Heard Shri Sarvanand Pandey, learned counsel for the petitioners and Shri Devesh Vikram, learned Additional Chief Standing Counsel for the State-respondents.
2. The present writ petition is preferred for a direction to the respondent no. 2 to compute/determine adequate compensation and release the same in favour of the petitioners in lieu of plot nos. 1102, 1135 and 1101/1, total area admeasuring 01 Acre, 11 Decimal, situated at Village- Hata, Tappa- Bichhauri, Pargana- Shahjahanpur, Tehsil- Hata, District- Kushinagar within stipulated time.
3. Shri Devesh Vikram, learned ACSC raised an objection regarding the maintainability of the writ petition on the ground that, earlier, the petitioners have approached to this Hon'ble Court by way of Writ-C no. 34820 of 2022 (Mohd. Akram Ali Khan and another v. State of UP and 03 others), wherein, they have challenged the order dated 18.07.2022 passed by the District Magistrate, District- Kushinagar, whereby, the representation of the petitioners for return/release of the land from resumption has been rejected.
4. The Division Bench vide an order dated 28.01.2023 has opined that the submission cannot be entertained as the resumption notification was issued way-back in the year 1966 and had not been challenged at the relevant point of time by the then owner namely predecessor-in-interest of the petitioners Gul Mohd. Khan s/o Mohd. Safi Khan. After a period of 50 years, the petitioners cannot be permitted to raise a dispute with regard to the validity of the resumption notification and accordingly, the writ petition was dismissed as misconceived. At no point of time, any leave was accorded to the petitioners to press the present writ petition. Once the order dated 18.07.2022 which was challenged in the earlier round of litigation, stood approved by dismissal of the writ petition, therefore, at this belated stage, without any leave from the previous court, the present writ petition cannot be pressed.

5. The objection is sustainable and accordingly, we hold that the present writ petition is a second writ petition for the same cause of action, therefore, no relief can be accorded to the petitioners. Accordingly, the present writ petition is not maintainable and the same is **dismissed**.

Order Date :- 1.12.2023

Rama Kant