

Court No. - 40

Case :- WRIT - C No. - 40285 of 2023

Petitioner :- Rana Pratap Mall

Respondent :- State Of U.P. And 18 Others

Counsel for Petitioner :- Ajay Kumar Tiwari, Premendra Kumar

Counsel for Respondent :- C.S.C.

Hon'ble Mahesh Chandra Tripathi, J.

Hon'ble Prashant Kumar, J.

1. Heard Shri Ajay Kumar Tiwari, learned counsel for the petitioner and learned Additional Chief Standing Counsel for the State-respondents.

2. The present writ petition has been preferred seeking for the following reliefs :-

"(i) issue a writ, order of direction in the nature of mandamus commanding to the respondent no. 3 to restore the land of petitioner in its previous position which was disposed by the respondent during the pendency of Civil Case No. 529 of 1994 (Nand Kishore v. Alok Kumar and others) pending before the learned Trial Court, Civil Judge (J.D.).

(ii) issue a writ, order of direction in the nature of mandamus commanding respondent No. 3-Sub Divisional Magistrate, Tehsil- Madhuban, District- Mau to ensure strict compliance of order of learned Trial Court, Civil Judge (J.D.) Mohadabad Gohna, Mau dated 11-05-1994 in Original Case No. 529 of 1994 (Nand Kishore v. Alok Kumar and others).

(iii) issue a writ, order of direction in the nature of mandamus commanding official Respondent not to further permit to respondent no. 14 to 16 to raise the construction activities on gata no. 317 area 0.952 Hect. which is situated in village Ufarauli, Tehsil -Madhuban, District- Mau on any ground and in any manner whatsoever.

(iv) issue a writ, order of direction in the nature of mandamus directing the respondent no. 3-Sub Divisional Magistrate, Tehsil Madhuban, District- Mau to restore the land of the petitioner in its previous position which was dispossess by the Respondents during the pendency of the Original Case No. 529 of 1994 (Nand Kishore v. Alok Kumar and others).

(v) issue a writ, order of direction in the nature of mandamus directing the respondent no. 1, to take disciplinary action against the official Respondent nos. 3, 4, 5 and 6. who have illegally dispossessed the petitioner from his land without adopting any legal procedure."

3. It is being complained before us that the injunction accorded by the competent civil court in favour of the petitioner is O.S. No. 529 of 1994 is being flouted by the respondents.

4. Learned Additional Chief Standing Counsel has raised an

objection regarding the maintainability of the writ petition on the ground that the dispute between the parties are private dispute and the petitioner has already invoked the civil jurisdiction by preferring original suit no. 529 of 1994 for an injunction, wherein, the injunction is also accorded vide order dated 11.03.1994, therefore, two parallel proceedings may not be permitted.

5. Be that as it may if the petitioner is aggrieved for non-compliance of the said injunction order, the efficacious remedy to press an application is available under Order 39 Rule 2-A of CPC.

6. Considering the facts and circumstances, we are not inclined to entertain the writ petition under Article 226 of the Constitution of India. Needless to say, if the injunction is being flouted, it is always open to the petitioner to press an application under Order 39 Rule 2-A CPC before the competent civil court.

7. The writ petition stands **disposed of** accordingly.

Order Date :- 1.12.2023

Rama Kant