

Court No. - 51

Case :- WRIT - C No. - 40209 of 2023

Petitioner :- Khalik Raza @ Ubaid Raza And 3 Others

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Rajesh Kumar Yadav

Counsel for Respondent :- C.S.C.,Avinash Chandra Srivastava

Hon'ble Chandra Kumar Rai,J.

1. Heard Mr. Rajesh Kumar Yadav, learned counsel for the petitioners, Mr. Abhishek Shukla, learned Additional Chief Standing Counsel for the State-respondents and Mr. Avinash Chandra Srivastava, learned counsel for the respondent- Gaon Sabha.

2. The instant petition has been filed for the following reliefs:

"i. issue a writ, order or direction in the nature of mandamus commanding and directing the concerned respondent -authorities not to interfere or to dispossess the petitioner from the ownership and peaceful possession over the Agricultural land of the petitioner New Gata No.397 (Old gata no.169) area 1.770 hectare and abadi land gata no.395 kha area 0.3000 hectare and abadi gata no.557 ka area 0.090 hectare situated at village and gaon sabha dehuli pargana barnahal, Tahsil- karhal, District- Mainpuri.

ii. issue a writ, order or direction in the nature of mandamus commanding and directing concerned respondent authorities not to dispossess or demolish the constructed pakka house of the petitioners from the abadi land of the petitioners.

iii. issue a writ, order or direction in the nature of mandamus commanding and directing the respondents authority not to declare the agriculture land of the petitioner as Gaon Sabha abadi of agricultural land of the petitioners new gata no.397 (old gata no.169) area 1.1770 hectare as gaon sabha abadi by the respondent authorities."

3. Learned counsel for the petitioners submitted that the petitioner is recorded owner of plot no.397. He further submitted that adjoining to the petitioners' bhumidhari plot abadi land of the gaon sabha is situated. He further submitted that the petitioners are in long possession over the abadi land situated adjacent to the petitioners' bhumidhari plot but authorities are interfering with the possession of the petitioners in respect to the abadi land as well as right, title and possession of the petitioners in respect to the bhumidhari land, hence this writ petition.

4. Mr. Abhishek Shukla, learned Additional Chief Standing Counsel for the State-respondents and Mr. Avinash Chandra Srivastava, learned counsel for the respondent- Gaon Sabha submitted that the writ petition for the relief claimed is not maintainable. They further submitted that the

petitioners should avail proper remedy rather writ petition before this Court.

5. I have considered the argument advanced by learned counsel for the parties and perused the records.

6. There is no dispute about the fact that plot no.397 is bhumidhari plot of the petitioners and the adjoining plot is abadi of the gaon sabha and petitioner is praying for writ of mandamus restraining the respondents from interfering with the right title and possession of the petitioner.

7. Considering the entire facts and circumstances of the case, no interference is required in the matter as the relief claimed by the petitioner in the writ petition can not be granted in exercise of jurisdiction under Article 226 of the Constitution of India.

8. The writ petition is finally ***disposed of*** with liberty to the petitioners to initiate proper proceedings in accordance with law.

Order Date :- 7.12.2023

Rameez