

Court No. - 21

Case :- WRIT - C No. - 40429 of 2023

Petitioner :- Mahesh And 3 Others

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

Counsel for Petitioner :- Devendra Kumar Shukla

Counsel for Respondent :- C.S.C., Surnedra Prasad Shukla

Hon'ble Manoj Kumar Gupta, Acting Chief Justice

Hon'ble Kshitij Shailendra, J.

1. Petitioners have prayed for quashing of the auction notice dated 10.11.2023 issued by respondent nos. 3 & 4. The impugned auction notice is for auction of land in school premises for construction of shops by the perspective allottees/bidders. It specifically mentions that although the expenses of the construction would be borne by the allottees but the shops would vest in Nagar Palika Lalitpur.

2. The case of the petitioners is that the land over which the school is built belongs to them, therefore, Zila Panchayat has no power to auction any part of the land of the school. The petitioners have annexed 'Khatauni' of different plot numbers to establish that they are bhumidhars of these plots.

3. During the course of arguments, learned counsel for the petitioners, on query made by the Court as to over which plot number the school is situated, has produced before us a certified copy of 'Khatauni', according to which the school is built over Plot Nos. 448 & 449 but not over any of the plots in respect of which, the petitioners have filed extracts of 'Khataunis' to establish their title. Thus, there is no evidence on record to reveal that the school is built over the land owned by the petitioners.

4. In exercise of writ jurisdiction, we refrain from deciding such issues finally and leave it open to the petitioners to seek remedy under common law or before such other forum as may be advised. In that event, any observation made herein would not prejudice the case of the petitioners.

5. The petition is disposed of with the aforesaid liberty.

(Kshitij Shailendra, J.) (Manoj Kumar Gupta, ACJ.)

Order Date :- 14.12.2023/SK