

Court No. - 40

Case :- WRIT - C No. - 41346 of 2023

Petitioner :- Balkrishna Agnihotri

Respondent :- State Of U.P. And 12 Others

Counsel for Petitioner :- Sanjay Kumar Srivastava

Counsel for Respondent :- CSC,Achal Singh

Hon'ble Mahesh Chandra Tripathi,J.

Hon'ble Surendra Singh-I,J.

1. Learned counsel for the petitioner makes an oral prayer that as the respondent No.11 is already dead, therefore, his name may be deleted from the array of parties. The prayer is accepted. The name of Respondent No.11 is deleted from the array of the parties.

2. Heard learned counsel for the petitioner and learned Additional Chief Standing Counsel for the State-respondents.

3. In view of the order proposed to be passed, notices need not go to private respondents Nos.9, 10, 12 and 13.

4. This writ petition is preferred for following principal relief:

"i. Issue a writ, order or direction in the nature of mandamus directing the respondent concern to remove unauthorized encroachment over Gata no.4932 area 0.516 & Gata 5103 area 1.208 hectare recorded as State land in the revenue record situate in Village Marka tehsil Baberu District Banda in pursuance of the government order no.R-1082/जी-5 01 अति /2017 dated 08 May 2017 passed by the State Government.

ii. Issue a writ order or direction in the nature of Mandamus directing the respondent no.2 & 7 concern to initiate proper legal action against the unauthorized occupants ie. Respondent no. 9 to 13 who are land grabbers of the said village for causing loss to the petitioner in the interest of justice.

Iii. Issue a writ order or direction in the nature of Mandamus directing the respondent no.6 & 7 by vacating the illegal encroachment made by the respondent no.9 to 13 over Gata no.4932 area 0.516 & Gata 5103 area 1.208 hectare recorded as State land in the revenue record situate in Village Marka tehsil Baberu District Banda, otherwise the petitioner shall suffer irreparable loss and injury which can not be compensated in terms of money.

iv. Issue a writ order or direction in the nature of Mandamus directing the respondents to decide the application/representation of the petitioner dated 29.3.2023 in accordance with law."

5. At the very outset, learned Additional Chief Standing Counsel submits that full

fledged mechanism is provided in the U.P. Revenue Code, 2006 (in short "the Code") and for redressal of his grievance, the petitioner can invoke the remedy as provided under Section 67 of the U.P. Revenue Code.

6. In view of the aforesaid, it would serve no purpose to keep the writ petition pending, and therefore, it is directed that petitioner may submit a representation before the Assistant Collector bringing the relevant facts regarding encroachment over the aforesaid plot to the notice of the concerned Assistant Collector who, if no proceedings under Section 67 of the Code have already been registered in relation to encroachment over the said plot, on receiving the aforesaid representation, shall inquire into the allegations made by the petitioner after following the procedure prescribed under Section 67 of the Code read with Rule 67 of the Uttar Pradesh Revenue Code Rules, 2016 and pass appropriate orders within a period of three months from the date when the aforesaid representation is filed by the petitioner, after giving opportunity to all the stake holders in the matter. In case the allegations of the petitioner are found to be true, the Assistant Collector shall ensure that the encroachments over the said land are removed within a period of one month, thereafter, unless the order of Assistant Collector is stayed by any superior authority or court in any appeal or revision filed against the order of Assistant Collector.

7. It is clarified that this Court has not adjudicated upon the merits of the claim as raised by the petitioner in the present writ petition.

8. With the aforesaid directions, the writ petition is **disposed of**.

Order Date :- 7.12.2023

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