

Court No. - 51

Case :- WRIT - C No. - 41691 of 2023

Petitioner :- Bunni Lal

Respondent :- State Of U.P. And 5 Others

Counsel for Petitioner :- Babu Ram Yadav, Arun Yadav

Counsel for Respondent :- C.S.C., Sudhir Bharti

Hon'ble Chandra Kumar Rai, J.

1. Heard Mr. Babu Ram Yadav, learned counsel for the petitioner, Mr. Abhishek Shukla, learned Additional Chief Standing counsel for the State respondents and Mr. Sudhir Bharti, learned counsel for respondent No.6/Land Management Committee.

2. The instant writ petition has been filed against the order dated 14.11.2023 passed by Tehsildar in the proceeding under Section 67 (1) of U.P. Revenue Code, 2006.

3. Learned counsel for the petitioner submitted that order for enactment and damages has been passed against the petitioner in arbitrary manner with respect to the plot which is recorded as naveen parti in the revenue record. He further submitted that proceeding under Section 67 (A) of the U.P. Revenue Code, 2006 was also initiated in respect to the plot in question which has been dismissed vide order dated 07.11.2023. He further submitted that against the order dated 07.11.2023, revision filed by the petitioner before Commissioner is pending before Commissioner. He further submitted that considering the area of plot in dispute as well as nature of the entry of the plot in dispute petitioner's case under Section 67 (A) of the U.P. Revenue Code, 2006 should be accepted but the authorities has illegally refused the prayer made in the proceeding under Section 67 (A) of U.P. Revenue Code,

2006. He further submitted that order for ejectment and damages passed against the petitioner be set aside as authorities are adamant to eject the petitioner from plot in dispute.

4. On the other hand, Mr. Abhishek Shukla learned Additional Chief Standing Counsel for the State and learned counsel for land management committee submitted that against the order impugned remedy of appeal under Section 67 (5) of the U.P. Revenue Code, 2006 is available to the petitioner, as such no interference is required in the matter.

5. I have considered the arguments advanced by the learned counsel for the parties and perused the record.

6. There is no dispute about the fact that order for ejectment and damages has been passed against the petitioner on 14.11.2023. There is also no dispute about the provisions that remedy of appeal under Section 67 (5) of U.P., Revenue Code, 2006 is available against the impugned order dated 14.11.2023.

7. In view of the remedy of appeal available to the petitioner against the order dated 14.11.2023 passed by Tehsildar for ejectment and damages, the instant petition is finally disposed of directing the petitioner to file an appeal under Section 67 (5) of U.P. Revenue Code, 2006 before Collector/respondent No.2 within a period of three weeks from today. The respondent No.2/Collector Kushinagar shall register the appeal which will be decided on merit in accordance with law within a period of **three months** from the date of presentation of certified copy of this order.

8. Till the disposal of the aforementioned appeal, the order of Tehsildar dated 14.11.2023 passed against the petitioner shall kept

in abeyance in view of the ratio of law laid down by this Court reported in **2007 (102) RD 498, Ali Sher Vs. State of U.P. Through Collector, Bijnor and Others.**

Order Date :- 4.12.2023

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