

Court No. - 40

Case :- WRIT - C No. - 42164 of 2023

Petitioner :- Smt. Vimlesh

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

Counsel for Petitioner :- Dharmendra Pratap Singh

Counsel for Respondent :- C.S.C.

Hon'ble Mahesh Chandra Tripathi,J.

Hon'ble Prashant Kumar,J.

1. Heard Shri Dharmendra Pratap Singh, learned counsel for the petitioner and learned Standing Counsel for the State-respondents.
2. By means of the present writ petition, the petitioner has prayed for a writ of mandamus directing the respondents specially respondent no. 2 to restrain the respondent no. 4 from interfering in peaceful possession of the agricultural land (Khata No. 302) share of the petitioner.
3. In pith and substance, the petitioner has approached this Court by invoking the writ jurisdiction restraining the State-respondents not to interfere in peaceful possession of the land in dispute. The petitioner is seeking enforcement of common law rights for protection of his property.
4. The core issue before us is whether the writ jurisdiction in the High Court is available for enforcement of such right claimed by and against private respondents. It has repeatedly been held by this Court that regular suit is the appropriate remedy for settlement of dispute relating to property rights between the private persons and the remedy under Article 226 of the Constitution of India shall not be available, except where violation of some statutory duty on the part of a statutory authority alleged.
5. The High Court cannot allow the constitutional jurisdiction to be used for deciding disputes for which remedies, under general law, civil or criminal, are available. The jurisdiction under Article 226 of Constitution of India is special and extraordinary and should not be exercised casually or lightly.
6. Considering the facts and circumstances of the case, we find substance in the objection raised by learned Standing Counsel and as such, we are not inclined to entertain this petition on merits. Needless to say, it is always open to the petitioner to invoke the remedy as available in law.
7. The writ petition stands **disposed of** accordingly.

Order Date :- 14.12.2023/ Rama Kant