

Chief Justice's Court

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 23339 of 2021

Petitioner :- Shradha Dubey

Respondent :- State Of U.P.Thru Prin.Secy.Home Deptt. Lucknow And Ors.

Counsel for Petitioner :- Shyam Bahadur,Arvind Kumar Tripathi,Balwant Singh,Harish Chandra,Rati Yadav

Counsel for Respondent :- C.S.C.,Abhishek Pandey,Brijesh Kumar Singh,Dinesh Kumar Misra,Mohiuddin Khan,Prem Shanker Pandey

Hon'ble Pritinker Diwaker,Chief Justice

Hon'ble Jaspreet Singh,J.

1. Heard learned counsel for the petitioner and the learned standing counsel for the State-respondents and Shri B.K. Singh, learned counsel, who has moved an application seeking impleadment as respondent No.16 in the petition at the behest of Mahant Ram Kishore Das, Chela Late Ramji Das of Udaseen Sangat Virajman.
2. The instant petition has been filed in the nature of Public Interest Litigation seeking a direction in the nature of mandamus commanding the opposite parties to make a detailed enquiry of scam related to Akhil Bhartiya Udaseen Sangat Chowk, Lucknow and its related properties situated in different cities by an independent agency like C.B.I. and recover all the properties which have been transferred illegally.
3. A further relief in the nature of mandamus has been sought seeking a direction to the respondent No.2 to issue directions to all the Sub-Registrars in the State of U.P., not to register the document pertaining to any transfer deed in respect of the property belonging to Udaseen Sangat, Akhil Bhartiya Udaseen Sampadaik Sangh, without the order of the District Judge, amongst others.
4. The record further indicates that a Coordinate Bench of this Court by

means of the order dated 08.10.2021 while directing the case to be listed in second week of November, 2021 had directed the District Magistrate, Lucknow to look into the averments of the writ petition and form his opinion as to whether any effective steps can be taken to check the alleged illegal alienation of property of the charitable institution known as "Akhil Bhartiya Udaseen Sampraday Sangat", who has properties in various districts including in Lucknow.

5. In furtherance thereof, the learned Additional Chief Standing Counsel has filed an affidavit of the District Magistrate, who in compliance had formed a Committee, and after deliberations have made certain suggestions which have been indicated in Paragraph-6 of the short counter affidavit filed on behalf of the respondent No.3.

6. Apparently, from a bare perusal of the pleadings, it appears that there is viscous litigation between persons claiming to be the 'Mahant' of Udaseen Sampraday Sangh. The details of the properties belonging to Udaseen Sampraday Sangh have been mentioned in Paragraph-9. List of Temples, Dharamshalas and other charitable institutions belonging to the said Sampraday have been detailed in Paragraph-10 of the petition. A reference has also been made to the first information reports which have been lodged against persons who are allegedly impersonating themselves as Mahant of Udaseen Sampraday Sangh in Paragraphs-14A to 14G, list of the properties which have been allegedly sold illegally have been detailed in Paragraph-15 of the petition.

7. The petitioner has also attempted to indicate that a number of persons have forged certain trust deeds, power of attorney in order to usurp

the income as well as the property belonging to Udaseen Sampraday in Paragraph-17 of the petition.

8. Taking note of the aforesaid averments, it appears that the petitioner wants to get a detailed enquiry held regarding the alleged alienation and usurpation of the properties belonging to Sampraday. The record also indicates that there are regular suits pending which entail the issue regarding the Mahantship of the Sampraday. All the aforesaid matters involve highly disputed questions of fact which may not be adjudicated nor be seen in exercise of extraordinary powers conferred of this Court under Article 226 of the Constitution of India, even treating it to be a public interest litigation.

9. Having taken note of the short counter affidavit filed by the District Magistrate and the suggestions given therein, this Court finds that the issue of title and right to the office of Mahantship are best suited to be adjudicated by the competent Court vested with jurisdiction to deal with the aforesaid issues.

10. The grievance of the petitioner appears to be to seek protection of the property belonging to Sampraday Sangh, then he can avail the remedy available to him in terms of Section 92 of the Code of Civil Procedure where he can also seek appropriate remedy for injunction restraining the alienation as well as would also have ample right to get a Receiver appointed. This has been observed only for the purposes to indicate that the petitioner has the right to invoke the appropriate remedy before the competent Court for redressal of his grievance if the law so permits. However, this Court is of the clear opinion that such contentious issues

cannot be adjudicated in the present proceedings.

11. Accordingly, we are not inclined to entertain the present petition in the nature of public interest litigation. However, leaving it open to the petitioner to seek his remedy in accordance with law before the competent Court.

12. With the aforesaid, the petition is dismissed.

Order Date :- 17.07.2023
Rakesh/-

[Jaspreet Singh, J.] [Pritinker Diwaker, C.J.]