

Court No. - 4

Case :- CONTEMPT APPLICATION (CIVIL) No. - 1145 of 2018

Applicant :- Mohd. Tajalli

Opposite Party :- Chanchal Kumar Tiwari Addl.Chief Secy/Prin.Secy Revenue Andors

Counsel for Applicant :- Brijesh Kumar Singh

Counsel for Opposite Party :- CSC

Hon'ble Rajesh Singh Chauhan,J.

1. Heard Sri Brijesh Kumar Singh (B.K. Singh), learned counsel for the petitioner and Sri Sunil Bajpai, learned Additional Chief Standing Counsel.

2. At the very outset, Sri Sunil Bajpai, learned Additional Chief Standing Counsel has drawn attention of this Court towards the affidavit of compliance of opposite party No.6 filed on 24.05.2023 wherein it has been categorically indicated in para-6 & 7 that the order of the Writ Court has been complied with as the illegal encroachments have been removed and the petitioner has been given Rs.25,000/-. Annexure No.A-1 of the affidavit of compliance are the photographs of the plots in question along with copies of the spot memo dated 17.12.2022 and 31.12.2022. The Annexure No.A-2 is the affidavits of the petitioners wherein they have accepted that they have been paid Rs.25,000/- each.

3. Sri Sunil Bajpai, learned Additional Chief Standing Counsel has also drawn attention of this Court towards the short counter affidavit filed on 24.05.2023 wherein the deponent is one Sri Mahesh Kumar Kaithal, the then Sub-Divisional Magistrate, Tehsil-Kaisarganj, District-Bahraich and vide para-5, it has been indicated that all the encroachments over the plots in question have been removed showing the spot memos and the photographs which have been annexed in the affidavit of compliance of opposite party No.6.

4. Sri Bajpai, learned Additional Chief Standing Counsel has stated that no reply or objection to the aforesaid affidavit of compliance and the short counter affidavit has been filed by the petitioner till date.

5. However, Sri B.K. Singh, learned counsel for the petitioner has drawn attention of this Court towards the impleadment

application filed on 04.04.2023 by submitting that the petitioners have not been paid a sum of Rs.25,000/- but they have been compelled forcefully to make signatures on the blank papers.

6. Learned counsel for the petitioner has also levelled allegations against the Revenue Officers to the effect that without making payment of Rs.25,000/- a false and fictitious affidavits have been prepared and filed before the Court. However, he has admitted that illegal encroachments over the plots in question have been removed.

7. On being confronted Sri B.K. Singh, learned counsel for the petitioner as to whether the petitioner has alleged any F.I.R. or filed any application under Section 156 (3) Cr.P.C. before the appropriate court of law against illegal action of the Revenue Authorities, he has stated that he has only preferred an application to the Superior Authorities but not lodged any F.I.R. or filed any application under Section 156 (3) Cr.P.C.

8. Be that as it may, when admittedly the illegal encroachments over the plots in question have been removed in terms of order of the Writ Court and two affidavits have been filed by the opposite party No.6 in his affidavit of compliance that a sum of Rs.25,000/- has been paid to the petitioners each, therefore, the factum as to whether the amount in question has not been paid and the affidavit has been obtained/ prepared forcefully may not be adjudicated by the Contempt Court. If the petitioner was aggrieved from any illegal or unauthorized action or inaction of the opposite parties, he could have taken legal recourse against actions but admittedly he has not taken any legal recourse.

9. Therefore, keeping in view the aforesaid facts and circumstances, I do not find any fruitful purpose to keep this contempt petition pending any longer.

10. Accordingly, the instant contempt petition is ***dismissed***.

11. Notices, if any, stand discharged.

[Rajesh Singh Chauhan,J.]

Order Date :- 7.12.2023

Suresh/