

Court No. - 3

Case :- WRIT - C No. - 5122 of 2023

Petitioner :- Rama Shankar

Respondent :- State Of U.P. Thru. Prin. Secy. Home Deptt. U.P. Civil Secrett. Lko. And 5 Others

Counsel for Petitioner :- Rajeev Kumar Mishra Rudra

Counsel for Respondent :- C.S.C., Pankaj Gupta

Hon'ble Subhash Chandra Sharma,J.

1. Heard learned counsel for the petitioner, learned Chief Standing Counsel for State-respondents and learned counsel for respondent no. 6 i.e. Gaon Sabha - Gedsar.

2. It is submitted by learned counsel for the petitioner that in Case No. 4336 of 2017, Computerized Case No. T2017083047064336, (Gaon Sabha Vs. Sesh Mani) under Section 67 of U.P. Revenue Code, 2006, an order of removal of encroachment done by respondent nos. 4 & 5 on Gata No. 1852/Area 0.040 hectare was made on 23.5.2022 but encroachment has not been removed by the authorities concerned. Therefore, a direction in the nature of Mandamus be given to the authorities concerned to remove/demolish the illegal encroachment.

3. On the other hand, learned C.S.C. for State-respondents opposed the prayer and contended that petitioner has an option to move an application in this regard before the authority concerned who has passed the judgment under Section 67 of U.P. Revenue Code, 2006 and this petition is not sustainable in the eye of law.

4. On considering the facts and circumstances of the case, submissions made by learned counsel for the petitioner, learned C.S.C. for State-respondents and learned counsel for Gaon Sabha and on perusal of the record, it is apparent that the petitioner has an option to move an application before the authority concerned to remove land encroachment made by respondent no. 4 and 5 on Gata No. 1852/0.040 Hectare situated in Village- Gedsar, Pergana-Mahadeva, Tehsil-Tarabhanj, District- Gonda. In view of aforesaid, in case the petitioner moves an application before the authority concerned with the certified copy of this order, the compliance of order passed by the authority dated 23.5.2022 will be given effect within a period of sixty days from the date of moving an application before the authority concerned.

5. Accordingly, the writ petition is **disposed of** finally.

Order Date :- 26.6.2023/Mohit Singh/-