

Chief Justice's Court

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 704 of 2023

Petitioner :- Talukdar

Respondent :- State Of U.P. Thru. Prin. Secy. Deptt. Of Revenue And Disaster, Lko. And Others

Counsel for Petitioner :- Ashutosh Kumar Singh

Counsel for Respondent :- C.S.C.,Mohan Singh,Rishabh Kapoor

Hon'ble Pritinker Diwaker,Chief Justice

Hon'ble Rajan Roy,J.

1. Heard.

2. Ms. Vandana Pandey, Sub-Divisional Magistrate, Tehsil-Jaisinghpur, District- Sultanpur is present in the Court today.

3. This petition has been filed seeking the following reliefs:-

"(1) issue a writ, order or direction in the nature of Mandamus thereby commanding the opposite parties to ensure that the construction of water tank in Gram Panchayat Bhadila Khanipur, Block Motigarpur, Tehsil Jaisinghpur, District Sultanpur is done on land Gata No. 354 area 0.90 hectare instead of land Gata No. 208 area 0.2780 hectare.

(ii) issue a writ, order or direction in the nature of Mandamus thereby commanding and directing the opposite party No. 1 to 5 to look into the matter and take necessary step for construction of water tank over proposed land Gata No. 354 area 0.90 hectare situated village Bhadila Khanipur, Block Motigarpur, Tehsil Jaisinghpur, District Sultanpur in the public interest.

(iii) Issue such other suitable writ, order or direction as the Hon'ble Court may deem just and proper in the facts and circumstances of the case.

(iv) Allow the writ petition with cost."

4. The contention of learned counsel for the petitioner is that another land was proposed by the Gaon Sabha for construction of tank but instead of construction on the said land, it is being constructed on another land without following procedure prescribed in law and especially as the said land is disputed and there being a civil suit in respect thereof.

5. Learned Standing Counsel says that the factum of pendency of civil suit was not in the knowledge of the S.D.M. and the

land on which tank is being constructed now was proposed by Gaon Sabha by a second resolution which has been approved by the S.D.M.

6. Considering the facts of the case, we are of the opinion that the petitioner may approach the Collector, Sultanpur who will get the facts verified and take such decision regarding construction of the tank on the land in question as he may deem fit and proper. We under Article 226 of the Constitution of India cannot enter into the disputed questions of facts. We have not expressed any opinion on the merits of the issues involved and it can be seen by the Collector, Sultanpur.

7. With these observations/ direction, the petition is **disposed of**.

Order Date :- 17.8.2023

Shanu/-

(Rajan Roy,J.) (Pritinker Diwaker,CJ.)