

Court No. - 17

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 707 of 2023

Petitioner :- Mohd. Shoaib Mansoori

Respondent :- State Of U.P. Thru. Prin. Secy. Deptt. Of Revenue, Lko. And 5 Others

Counsel for Petitioner :- Chandra Bhanu Singh, Rajesh Kumar Gupta

Counsel for Respondent :- C.S.C., Dilip Kumar Pandey

Hon'ble Alok Mathur, J.

Heard Sri Chandra Bhanu Singh, learned counsel for the petitioner and learned Standing Counsel on behalf of the respondent nos. 1 and 2.

As per previous direction of this Court dated 8.8.2023 Sri Rajeev Yadav, tehsildar, Sandila, Hardoi is present before the Court today.

The present PIL was filed by the petitioner seeking eviction from the public land situated at gata no.544/0.039 hectare situated at village- Kachhauna, Pargana, Tehsil- Sandila, district Hardoi, which has been recorded as a chakroad in the revenue records. It was stated that the private respondents had illegally encroached upon the chakroad, in which regard several representation were given by the villagers as well as the petitioners. It seems that proceedings under section 67(1) of UP Revenue Code, 2006 were initiated against the encroachers and the case was registered as Case No.T201910330406522 (Kamlesh Vs Gaon Sabha Kachhauna). The said proceedings were concluded and it was determined that the private respondents has encroached on the said land and orders for eviction were passed alongwith damages for Rs. 45,000/- against them. Despite the said order no action was taken by the revenue authorities and accordingly the present writ petition was filed.

This Court, while considering the aforesaid fact, had passed a detailed order on 8.8.23 expressing serious concerns with regard to the encroachment on the public utility land by individuals and laxity on the part of the revenue officials from taking adequate corrective action against the illegal encroachers and evicting them from the said land. It is in aforesaid circumstances and also considering the fact that orders have been passed for eviction and still the encroachers were occupying the said land the concerned tehsildar was directed to appear before this Court. This Court has been informed by the said official that after the order for removal of encroachment, the aggrieved persons had filed an application for recall of the said order which was accepted and after participation of all the parties, fresh order for eviction was passed on 09.10.2023. It has been informed that the persons aggrieved /alleged encroachers have filed an appeal before the District Magistrate being appeal No. D202310330002456(Kamlesh Vs Gaon Sabha Kachhauna), under sub section 5 of Section 67 of UP Revenue Code, which is pending consideration. It is stated that only after the decision of said appeal further action will be taken with regard to the removal of the encroachment. At this stage learned counsel for the petitioner submits that the District Magistrate may be directed to expedite the said appeal.

In light of the above, this Court is of the considered view that no order can be passed during the pendency of the said appeal and on the other hand expeditious action deserves to be taken in case the eviction order is upheld by the appellate authority. The grievance of the petitioner shall be substantially redressed in case the District Magistrate is directed to consider and decide the appeal expeditiously, preferably within two months from the date of production of certified copy of this order before him, strictly in accordance with law.

Accordingly, this petition is **disposed of**.

(Alok Mathur,J.)

Order Date :- 20.11.2023

Vipul