

Court No. - 4

Case :- CONTEMPT APPLICATION (CIVIL) No. - 2574 of 2023

Applicant :- Brijesh Kumar

Opposite Party :- Shri Sudhir Garg Ias, Addl. Chief Secy. / Prin. Secy. Revenue Deptt., Lko. And Others

Counsel for Applicant :- Mohiuddin Khan

Hon'ble Rajesh Singh Chauhan,J.

1. Heard learned counsel for the applicant/ petitioner and Sri Amrendra Pratap Singh, learned Addl. Chief Standing Counsel.

2. Attention has been drawn towards the order of the writ court dated 08.12.2022 passed in Writ-C No.8800 of 2022, Smt. Savitri and Others Vs. State of U.P. and Others, which reads as under:-

"Instructions filed today are taken on record.

Heard learned counsel for the petitioners and learned Standing Counsel for the State. Sri Anandya Shashtri, learned counsel has put in appearance on behalf of opposite party no.6.

Learned counsel for opposite party no.6 at the very outset has pointed out that the gram panchayat, Dulhapur has no concern with the matter at hand for the reason that the road in question is being constructed by Kshettra Panchayat.

Learned Standing Counsel has also placed before us the instructions according to which no part of land belonging to the petitioner i.e. gata no.285 measuring 0.1060 hectares is either utilised by the Kshettra Panchayat for the construction of chak road or is proposed to be acquired for any such use. Thus, the grievance is based on mere apprehension.

It is further submitted that the chak road is recorded on gata no.283 and the ongoing construction is carried out on the said gata. It is also pointed out that some part of chak road is encroached upon by local residents and the proceedings for removal of encroachment are going on.

Taking the aforesaid statement into consideration particularly the fact that no part of gata no.285 is either disturbed or taken over for the purposes of construction of chak road, we hereby provide that the land belonging to the petitioners while construction of the chak road shall not be disturbed in any manner.

The writ petition is accordingly disposed of."

3. Sri Amrendra Pratap Singh has drawn attention of para-5 of

the affidavit of compliance/ counter affidavit being filed by Ms. Jasjit Kaur, District Magistrate, Sultanpur on 21.09.2023 wherein vide para-5, she has categorically stated that the petitioner Brijesh Kumar etc. are occupying their own land at Gata No.285/0.1060 by plowing, sowing and planting trees. She has further indicated that there is no encroachment on the land of the petitioner and copy of Khetauni has been enclosed. There are some more submissions in para-5 of the counter affidavit of the District Magistrate and the relevant portion has been indicated in this order. In nutshell, para-5 of the counter affidavit of the District Magistrate clearly reveals that the gata number of the petitioner has not been encroached.

4. Considering the aforesaid contention of the District Magistrate, Sultanpur, I do not find any good reason to keep this contempt petition pending any longer. However, Sri Mohiuddin Khan, learned counsel for the petitioner has stated that the aforesaid submission of the District Magistrate is not correct.

5. Be that as it may, if the submission of the District Magistrate is not correct and she has not filed the proper affidavit, rather has indicated wrong facts on the affidavit, it is always open for the petitioner to file appropriate application before the Court.

6. Accordingly, this contempt petition is **dismissed**.

7. Notice, if any, stands discharged.

[Rajesh Singh Chauhan,J.]

Order Date :- 16.10.2023

RBS/-