

Court No. - 8

Case :- WRIT - C No. - 8488 of 2023

Petitioner :- Atma Prakash And 6 Others

Respondent :- Commissioner, Ayodhya Division, Ayodhya And 2 Others

Counsel for Petitioner :- Najmul Hasan Qudwai, Ashish Kumar

Verma, Shiv Kumar Vishwakarma, Shiv Shankar Mishra

Counsel for Respondent :- C.S.C., Dinesh Kumar Ojha

Hon'ble Pankaj Bhatia, J.

1. Heard learned counsel for the petitioners and learned Standing Counsel for the State.

2. Instructions filed today in Court is taken on record.

3. Present petition has been filed by the petitioner challenging the order dated 23.08.2023 passed under Section 6 of the U.P. Roadside Land Control Act, 1945, the order dated 13.04.2023 passed under Section 13(2) of the U.P. Roadside Land Control Act, 1945 as well as the appellate order dated 22.09.2023 passed in the appeal filed by the petitioner challenging the order dated 23.08.2023.

4. From the fact as on record, it appears that an order came to be passed against the petitioner on 13.04.2023 whereby the District Magistrate noticing that the petitioner had raised a boundary wall in an area which was within 75 feet of the center of the National Highway directed the petitioner to remove the offending boundary wall failing which steps shall be taken for its removal. The petitioner approached this Court by filing Writ - C No.4928 of 2023, which was disposed off on 13.07.2023 permitting the petitioner to move an appropriate application under Section 6 of the said Act before the Collector, Sultanpur who shall pass orders thereupon in accordance with law. The petitioner, it appears, moved an application through registered post, however, did not give any evidence to substantiate his title over the land over which the boundary wall was constructed, as such, the application was dismissed. The appeal preferred by the petitioner against the said order also came to be dismissed.

5. From the records, it is clear that the earlier order passed by the Collector was passed upon a report of the Tehsildar dated 01.02.2023. In the light of the said, this Court had called for perusal of the report dated 01.02.2023. Learned Standing Counsel has produced instructions as well as the report dated 01.02.2023, which clearly reveals that although the constructions made by the petitioner are situated within the

property owned by him, however, the boundary wall constructed by the petitioner is beyond the area owned by the petitioner and falls within 75 feet of the center of the National Highway.

6. Learned counsel for the petitioner argues that after the writ petition was disposed off by this Court on 13.07.2023, the petitioner could not move a comprehensive application being illiterate and thus, one more opportunity should be granted to the petitioner to move an application under Section 6 of the Act afresh consideration.

7. Before this Court, there is no material to suggest that the offending constructions are situated in the property owned by the petitioner nor is there any material to controvert the report dated 01.02.2023, as such, the petitioner has failed to establish any *prima-facie* case for grant of indulgence by this Court in exercise of powers under Article 226 of the Constitution of India.

8. As such, the petition lacks merit and is ***dismissed***.

Order Date :- 11.10.2023

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