

Court No. - 3

Case :- WRIT - C No. - 8660 of 2023

Petitioner :- Chandra Pal And Others

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

Counsel for Petitioner :- Akhilesh Kumar Pandey

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

Hon'ble Vivek Chaudhary, J.

Hon'ble Manish Kumar, J.

Heard learned counsel for the petitioners and learned Standing Counsel for the State as well as Sri Pankaj Gupta, learned counsel for respondent no.5-Gram Sabha.

Petitioners have approached this Court for a mandamus commanding respondent no.3 to restrain illegal construction over Gata No.504Kha/0.7590 hec. recorded as banjar in revenue record situated at village Phoolpur, Pargana Sadar, Tehsil Lalganj, Post Chamrupur Shuklan, District Pratapgarh.

Learned counsel for petitioners states that there is a status quo order passed by the revenue court concerned, which is not being complied with by the private respondents.

By virtue of Section 4 (16), U.P. Revenue Code, 2006 is defined as under:-

"Revenue Court" means all or any of the following authorities (that is to say) the Board and all Members thereof, Commissioners, Additional Commissioners, Collectors, Additional Collectors, [Chief Revenue Officers, Assistant Collectors, Settlement Officers, Assistant Settlement Officers, Record Officers, Assistant Record Officers, Tahsildar, Tahsildars (Judicial) and Naib-Tahsildars;]"

The question is as to whether a writ petition would be maintainable for the execution of an order passed by the revenue court.

Learned Standing Counsel appearing for the State has pointed out that there is a complete mechanism for the execution of the orders passed by the revenue courts under Section 214 of U.P. Revenue Code, 2006 read with para 460 of U.P. Revenue Court Manual.

The respective provisions are extracted hereunder:-

214. Applicability of Code of Civil Procedure, 1908 and Limitation Act, 1963-

Unless otherwise expressly provided by or under this Code, the provisions of the Code of Civil Procedure, 1908 and the Limitation Act, 1963 shall apply to every suit, application or proceedings under this Code.

460. Execution of decree and order (1)The decree or order passed under the Code or the Rules framed under the Code shall, mutatis mutandis, be executed in accordance with the provisions of Chapter V.

(2) The Assistant Collector/Tahsildar passing the order for eviction or recovery of any amount of damages or compensation under the provisions of Section 67 of the Code shall get the order executed and in execution of the order he shall, mutatis mutandis, follow the procedure laid down in paragraphs 137 and 138.

In the case of ***Ajab Lal vs. Rakesh Kumar Mishra & Ors. reported in 2007 Alld. pg 158***, the position as regards execution of orders passed by the Revenue courts was dealt with and it was held that the revenue courts itself are possessed with such a jurisdiction. The police and revenue authorities are duty bound to comply the orders passed by the revenue court.

On the same very analogy, we permit the petitioners to institute an appropriate proceeding before the opposite party no.2 or the appropriate authority along with certified copy of this order and in case any such proceedings are instituted, the competent court shall proceed in accordance with law and finalize the execution proceedings within a period of ninety days from the date of receipt/production of certified copy of this order, provided there is no legal impediment.

The writ petition is accordingly ***disposed of***.

[Manish Kumar,J.] [Vivek Chaudhary,J.]

Order Date :- 10.10.2023
Sachin