

Court No. - 6

Case :- WRIT - C No. - 8676 of 2023

Petitioner :- Raj Kumar

Respondent :- State Of U.P. Thru. Prin. Secy. Revenue,
Lucknow And 3 Others

Counsel for Petitioner :- Pawan Kumar Mishra

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

Hon'ble Rajnish Kumar,J.

1. Heard Sri Pawan Kumar Mishra learned counsel for the petitioner, Sri Upendra Singh learned Additional Chief Standing counsel, Sri Tushar Gupta holding brief of Sri Pankaj Gupta learned counsel for the Gaon Sabha.

2. Learned counsel for the petitioner submits that the proceedings under Section 67(2) were instituted against the petitioner for eviction from Gata no.277/0.004 hectares of 0.020 hectares.

3. The petitioner had filed objection specifically stating that the petitioner has not made any encroachment on the said land. A report was submitted by the Lekhpal which is recorded in the order dated 08.03.2022 of the case, it appears that earlier there was encroachment on the spot but presently the same is vacant. Thereafter, the case was fixed for cross examination of the Lekhpal, in the meantime without any order of the Court and any intimation to the petitioner the spot inspection was made on 29.12.2022 by the Lekhpal and exparte report was submitted to the effect that the petitioner has constructed a wall on the land in dispute. Thereafter, without affording any opportunity to contradict the report, the order dated 26.05.2023 was passed for removal of encroachment and damages of Rs.3600/- have been imposed. The petitioner had filed an appeal against the said order but the same has also been dismissed without considering the grounds of the petitioner, therefore, the petitioner is constrained to approach this Court.

4. Perusal of the report dated 29.12.2022 contained as Annexure-'8' to the petition indicates that there is signature of petitioner Raj Kumar on the report and the petitioner has not denied that the petitioner had not signed the report and if the spot inspection was made in presence of the petitioner then he could have filed the objection before the Court, if the report was wrong, but the same has not been done.

5. On the query being put, learned counsel for the petitioner shows ignorance to the signatures of the petitioner on the report and submits that the petition may be dismissed as not pressed with liberty to file fresh after verifying the correct facts. To which, there is no objection by the other side.

6. The petition is **dismissed** as not pressed with the liberty as prayed.

7. As prayed by learned counsel for the petitioner, office is directed to return the certified copies annexed with the petition to learned counsel for the petitioner after keeping photocopies on record.

(Rajnish Kumar,J.)

Order Date :- 12.10.2023

Harshita