

Court No. - 8

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 910 of 2023

Petitioner :- Nirendra Kumar

Respondent :- State Of U.P. Thru. Addl. Chief Secy./Prin. Secy. Revenue U.P. Lko. And 5 Others

Counsel for Petitioner :- Sanjay Singh

Counsel for Respondent :- C.S.C.,Mohan Singh

Hon'ble Pankaj Bhatia,J.

1. Present petition has been filed with the following prayers:

"(i) issue, a writ order or direction in the nature of Mandamus commanding the respondent authorities to ensure open the public drain, situated in Village- Agasand, Pargana- Kursi, Tehsil- Fatehpur, District- Barabanki, which was dumped by the private respondents in illegal and arbitrary manner.

(ii) issue, a writ order or direction in the nature of Mandamus commanding the respondents to restrain the private respondent No.5 and 6 not to made encroach the public drain from beside their house.

....."

2. Contention of learned counsel for the petitioner is that the present petitioner has filed the petition as a PIL for the reliefs as claimed.

3. Learned Standing Counsel, based upon instructions, states that earlier to filing the present petition, brother of the petitioner had filed Public Interest Litigation No.752 of 2023, which was dismissed by this Court vide order dated 22.08.2023 holding that the petition was influenced by private interest rather than public interest. While dismissing the petition, the Court had imposed a cost of Rs.500/- on the brother of the present petitioner who was petitioner in the earlier petition.

4. The instructions also states that on account of obstruction caused by the petitioner, the proposed construction of a permanent drain could not be made.

5. The fact of filing of earlier writ petition has not even been disclosed in the present petition, which clearly demonstrates the *malafide* on the part of the petitioner in invoking the jurisdiction of this Court. Even in the present petition, the allegations are more in the domain of private interest than public interest, thus, clearly the petition is an abuse of process of law and deserves to be dismissed.

6. As despite imposition of cost, the petition has been filed without even disclosing the said facts, the present petition is ***dismissed*** with a cost of Rs.10,000/- on the petitioner to be paid to the Library Fund of Oudh Bar Association.

7. The said cost shall be paid within a period of 15 days from today, failing which District Magistrate, Barabanki would recover the same as arrears of land revenue in accordance with law.

8. This order has been passed in the presence of Shri Mohan Singh, learned counsel appearing for the respondent.

Order Date :- 10.10.2023

nishant