

Court No. - 17

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 941 of 2023

Petitioner :- Sudhir Kumar Dubey

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Revenue Deptt. Lko And 4 Others

Counsel for Petitioner :- Alok Kumar

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

Hon'ble Alok Mathur, J.

1. Heard Sri Alok Kumar, learned counsel for petitioner as well as learned Standing Counsel for respondent No. 1 to 3.

2. In light of the proposed order, notices to respondent No. 5 is dispensed with.

3. Petitioner approached this court seeking a direction to respondent No. 3 / Tehsildar, Tehsil Payagpur, Pargana Ikauna, District Bahraich to initiate action against opposite party No. 5 for removal illegal encroachments over the public pathway land i.e. Gata No. 525/0.194 & 526/0.019 hectare situated in Village Shekhpur, Pargana Ikauna, Tehsil - Payagpur, District Bahriach.

4. Learned counsel for petitioner submits that respondent No. 5 has illegally encroached upon the land of Gata No. 525/0.194 & 526/0.019 hectare situated at aforesaid village despite the fact that the same is public utility land i.e. pathway. He further submits that petitioner has given several complaints regarding the illegal encroachment which has been done by the respondent No. 5 over the pathway land but the same have not been concluded.

5. Learned Standing Counsel on the other hand has submitted that petitioner has efficacious remedy under Section 26 of U.P. Revenue Code, 2006 where it has been provided If the Tehsildar finds that any obstacle impedes the free use of a public road, path or common land of a village or obstructs the road or water course or source of water, he may direct the removal of such obstacle and may, for that purpose, use or cause to be used such force as may be necessary and may recover the cost.

6. Learned counsel for petitioner at this stage submits that petitioner may be given liberty to move an application under Section 26 of U.P. Revenue Code, 2006 before the competent

authority.

7. Accordingly, without entering into merits of the case, the writ petition, is **disposed of** with a liberty to the petitioner to move an application under Section 26 of U.P. Revenue Code before the respondent No. 3 and in case such an application is made within two weeks from today, respondent No. 3 is directed to proceed to consider and decide the same expeditiously in accordance with law.

(Alok Mathur, J.)

Order Date :- 13.10.2023/Ravi/