

Court No. - 3

Case :- WRIT - C No. - 8934 of 2023

Petitioner :- Mohd. Mustak Khan And 2 Others

Respondent :- State Of U.P. Thru. Prin. Secy. Home Lko. And 12 Others

Counsel for Petitioner :- Alok Srivastava

Counsel for Respondent :- C.S.C.

Hon'ble Vivek Chaudhary,J.

Hon'ble Manish Kumar,J.

1. Heard learned counsel for petitioners and learned Standing Counsel for the State.
2. Petitioners have approached this Court for a mandamus commanding and directing respondents to restrain respondents no.4 to 13 from taking forceful and unauthorized possession over the ancestral land bearing Gata No.8/4 area 80 decimals of petitioners and conducting Ram Leela on the same. Respondent No.13 is Gaon Sabha.
3. The allegation of petitioners is that they are owner of plot no.8/4 measuring 80 decimals which is an abadi land in the village concerned. To prove their title, learned counsel for petitioners has placed before this Court the judgement and order dated 10.09.1987 passed in Second Appeal No.850 of 1982; 'Gaon Sabha Kauria through Chairman Vs. Abdul Sattar Khan. The said second appeal was rejected and claim of petitioners with regard to land in dispute was found in their favour. Learned counsel for petitioners has also filed khatauni of the said land for the fasli 1417-1422 of the year 2013 dated 10.01.2013 in which entire gata no.8 having an area of 3.6740 hect. is shown at one place and is not shown as bifurcated separately in name of different owners.
4. Learned Standing Counsel states that the Ram Leela on Gata no.8 is continuously being held since the year 1975. Last year also petitioners had made certain complaints. This year also petitioners have made certain complaints on which police has given its report. In the report it is specifically noted that entire

Kaudia Bazar is situated in Gata No.8/4 and the same is also huge in area. Petitioners have never got their land bifurcated. Learned counsel for petitioners submits that in the police report it is noted that Ram Leel is being conducted by Gaon Sabha.

5. Having heard counsel for the parties, we find that there is a judgment in second appeal as aforesaid in favour of petitioners but the same is only with regard to 8 decimal of land. As per revenue record filed by the petitioner Gata No.80 is having 3.6740 hect. of land. There is no record placed before this Court to show that the said land has been bifurcated and petitioners have got separate possession of their 80 decimal of land out of aforesaid 3.6740 hect. of land. Therefore, even at best petitioners have their only minuscule share in the aforesaid land without any bifurcation. Without other co-owners being party, petitioners can not pray for any relief. Further, admittedly for last many years gaon sabha is holding Ram Leela on the said plot. Petitioners' second appeal was decided in the year 1987. From 1987 till 2023, petitioners have not taken any steps to restrain the gaon sabha or any other person from holding Ram Leela on the spot. In view of aforesaid, this Court under Article 226 of Constitution of India is not inclined to exercise its discretionary jurisdiction to entertain the present writ petition. Petitioners have an appropriate remedy of filing a suit for injunction pleading detailed facts and proving the same before the appropriate Court.

6. Accordingly, the writ petition is **disposed of.**

Order Date :- 13.10.2023

Arti/-

[Manish Kumar,J.]

[Vivek Chaudhary,J.]