

Court No. - 17

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 956 of 2023

Petitioner :- Mahesh Kumar Goswami @ Mahesh Kumar Giri

Respondent :- State Of U.P. Thru. Prin. Secy. Home Deptt. Lko. And 5 Others

Counsel for Petitioner :- Shobh Nath Pandey

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

Hon'ble Alok Mathur, J.

1. Heard Sri Shobh Nath Pandey, learned counsel for the petitioner as well as learned Standing Counsel for respondent nos. 1 to 4 and Sri Mohan Singh, learned counsel appearing for respondent no. 5.

2. In the light of order proposed to be passed, notice to respondent no. 6 is dispensed with.

3. By means of present Public Interest Litigation it has been submitted by the petitioner that respondent authorities are illegally constructing water tank/tube well over land situated over Gata No. 853-K, area 0.256 hectares, situated in Village - Nasratpur Belahiya, Tehsil - Bikapur, District - Ayodhya.

4. It has been submitted by learned counsel for the petitioner that land situated over Gata No. 853-K, area 0.256 hectares, situated in Village - Nasratpur Belahiya, Tehsil - Bikapur, District - Ayodhya is recorded as 'Banjar' land in the revenue records, which is public utility land. He submits that on the said land a 'Pond' was constructed after utilizing Government funds under the MENREGA Scheme. The petitioner has annexed certain documents, which, according to him demonstrate that persons were employed and paid money for construction of Pond. The allegation in the present writ petition is that despite Pond having been constructed on the said land, the respondents are constructing water tank/tube well over the said land.

5. It is next submitted by learned counsel for the petitioner that once Pond has been dug over public utility land then its nature and character cannot be changed and prays that respondents may be restrained from constructing the water tank/tube well.

6. Learned Standing Counsel on the other hand on the basis of instructions has informed this Court firstly that petitioner does

not belong to the village where the water tank/tube well is being constructed. He has submitted that the petitioner is resident of Village - Kalyanpur Chhitauna Matha, Post - Tikari, Tehsil - Bikapur, District - Ayodhya, while the said disputed land is situated in Village - Nasratpur Belahiya. It is next submitted that the petitioner has political rivalry with the Gram Pradhan of the said village and due to which he has made malafide allegations and making all efforts to stop the construction. It is submitted that the petitioner has given representation to the Sub Divisional Magistrate, Bikapur and on the complaint made by the petitioner a spot inspection was conducted and an inspection report dated 05.10.2023 was prepared. The said spot inspection was conducted in the presence of the petitioner alongwith his associates. During the said inspection it was found that construction was carried out over Gata No. 853-Ka which is recorded as 'Banjar' in the revenue records and Gata No. 853-Kha is recorded as 'Kabristan' and neither of the said plots have been recorded as 'Pond'. On the part of the said land certain digging was undertaken for construction of Pond but the said digging is done on the western corner of the said land and not on the land on which water tank/tube well is being constructed.

7. Learned Standing Counsel has further submitted that despite the fact that petitioner was present on the spot but he refused to sign on the said report. In the aforesaid facts prayer has been made to dismiss the writ petition.

8. Heard learned counsel for the parties and perused the record.

9. The controversy in the present case relates to Gata No. 853-Ka on which the Gram Pradhan alongwith revenue officials are constructing water tank/tube well in the interest of general public. The petitioner on the other hand has filed present writ petition with prayer to restrain the respondents from constructing water tank. The present writ petition is in the form of Public Interest Litigation but on the face of it it does not seem that present petition is in the interest of public rather it is a petition filed in the garb of PIL for personal interest. The water tank/tube well is sought to be constructed in the said village at the instance of Gram Panchayat who have resolved to construct the same and the petitioner who is an outsider is seeking to restrain the authorities.

10. It is further noticed that objections of the petitioner were duly considered by the revenue authorities and spot inspection was made in the present of petitioner and finding has been recorded that the said water tank is being constructed without interfering in the land over which pond is being sought to be constructed and same has also been dug utilizing MENREGA

funds.

11. In the aforesaid circumstances, this Court would not interfere in the said matter where local villagers have resolved to construct water tank and it seems that with their consent and participation the said water tank/tube well is being constructed. Once water tank is constructed, undoubtedly it shall serve the entire village and such an activity would be for the welfare of the public living in the said village and any petition in opposition to the said proposal cannot be styled as Public Interest Litigation and hence deserves to be dismissed on this score alone.

12. In view of above, present writ petition does not seem to be filed in public interest and for the reasons recorded hereinabove, no interference is called for from this Court in the present matter.

13. Accordingly, writ petition being devoid of merits is **dismissed**.

Order Date :- 17.10.2023

A. Verma

(Alok Mathur, J.)