

Court No. - 17

Case :- WRIT - C No. - 9108 of 2023

Petitioner :- Heera Lal Saroj

Respondent :- State Of U.P. Thru. District Magistrate Dist. Pratapgarh And 6 Others

Counsel for Petitioner :- Dilip Kumar Pandey

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

Hon'ble Alok Mathur, J.

1. Heard Sri Dilip Kumar Pandey, 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 private respondents are is dispensed with.

3. Petitioner approached this court seeking a direction to respondents to remove the encroachment over the public path situated at village Korhi, Hemlet Dhanipur, Pargana Bihar, Police Station Baghrai, Tehsil Kunda, District Pratapgarh which is occupied by the respondent Nos. 4 to 6 erecting the boundary wall over the public way.

4. Learned counsel for petitioner submits that respondent Nos 4 to 6 have illegally encroached upon the land of public public path 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. 4 to 6 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 concerned Tehsildar and in case such an application is made within two weeks from today, said authority is directed to proceed to consider and decide the same expeditiously in accordance with law.

(Alok Mathur, J.)

Order Date :- 18.10.2023

Ravi/