

Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 8048 of 2023

Petitioner :- Peer Mohammad And Another

Respondent :- Chowki Incharge Jarwal Kasba Police Station Jarwal Road Bahraich And Others

Counsel for Petitioner :- Sajjad Husain

Counsel for Respondent :- G.A.

Hon'ble Mrs. Sangeeta Chandra,J.

Hon'ble Karunesh Singh Pawar,J.

(1) Heard the learned counsel for the petitioners and the learned A.G.A. who appears for the State-respondents.

(2) This petition has been filed by the petitioners for the following main prayer:-

"1) Issue a writ, order or direction in the nature of Mandamus commanding and directing to the opposite parties not to harass the petitioners.

2) Issue a writ order, or direction in the nature of Mandamus commanding and directing to the opposite party more specifically to the opposite parties nos.1, 2, 4, 5, 6 (i.e. Chowki Incharge, SHO P.S. Jarwal Road, Tehsildar Kaiserganj, District Bahraich, Kanungo Area Jarwal Road, Sub Divisional Magistrate, Kaiserganj, District Bahraich) not to demolish the house and part portion of the petitioners without due process of law or final outcome of pending case under Section 133 Cr.P.C. No.7016 of 2023 before the Sub Divisional Magistrate, Kaiserganj, District Bahraich, for securing the ends of justice."

(3) It has been submitted by the learned counsel for the petitioners that the petitioner no.1 is the father of the petitioner no.2 and the Petitioner no.1 is the recorded tenure holder of the land of Gata No.1990. It has been submitted that the house of the petitioner no.1 is built in his own land but the respondents have initiated the proceedings under Section 133 of the Cr.P.C. against the petitioners. The petitioner no.1 is willing to participate in the such proceedings but the police is adamant to demolish the house of the petitioner without giving him

opportunity.

(4) This Court having gone through the F.I.R. and also perused the pleadings on record, is of the opinion that the petitioner has statutory remedy of filing his Representation before the S.D.M. concerned who is the Executive Magistrate 133 of the Cr.P.C., the petitioner may have been issued notice which the petitioner has not respected and not appeared before the S.D.M. concerned.

(5) This writ petition has been filed only to pre-empt, the Authorities ought to prevent the due operation of the proceedings.

(6) The writ petition stands ***dismissed***.

Order Date :- 17.10.2023

N.PAL