

Court No. - 17

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 987 of 2023

Petitioner :- Jay Prakash @ Jay Prakash Pandey

Respondent :- State Of U.P. Thru. Its Secy. Revenue Deptt. Lko. And Others

Counsel for Petitioner :- Gyanendra Mishra

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

Hon'ble Alok Mathur,J.

1. Heard Sri Gyanendra Mishra, learned counsel for the petitioner as well as learned Standing Counsel for respondent nos. 1 and 2.

2. In the light of order proposed to be passed, notice to private respondents is dispensed with.

3. Grievance raised in the present writ petition is with regard to illegal incroachment over Gata No. 408, situated at Village - Rahilpara, Pargana - Barausa, Tehsil - Jaisinghpur, District - Sultanpur, which is recorded as 'Talab' in the revenue records.

4. It is submitted by learned counsel for the petitioner that respondent no. 4 has illegally encroached upon Gata No. 408, which is public utility land and is recorded as talab in the revenue records. It is stated that proceedings under Section 122-B of the U.P. Z.A. & L.R. Act were initiated against respondent no. 4 and against the order of eviction respondent no. 4 had approached this Court by filing Writ Petition No. 3576 (M/S) of 2016, which was disposed of by means of order dated 24.02.2016, by following order :-

"In the circumstances, the writ petition is disposed of with the direction to the Assistant Collector to conduct a survey before taking possession over the land in dispute in pursuance of the order dated 22.09.2014. In case in the survey report, construction of the petitioner is found lying on plot no. 408 then the petitioner may be given opportunity to file his objection and evidence and after hearing him a fresh order may be passed and that will be followed by the petitioner."

5. It has been next submitted by learned counsel for the petitioner that in compliance of order passed by this Court proceedings were initiated under Section 122-B and further a

revision was preferred by respondent no. 4 which was also disposed of recording that survey was also conducted where respondent no. 4 has been found to have encroached upon Gata No. 408, which is recorded as talab.

6. It is further submitted by counsel for the petitioner that in this regard orders for eviction and imposition of penalty have also been passed against respondent no. 4. It is submitted that despite orders having been passed by the competent authority, the private respondent is still illegally encroaching upon the land in question and consequently present writ petition has been filed and prayer has been made to for direction to the State respondents to remove illegal encroachment over the said land.

7. Learned Standing Counsel has opposed the writ petition by submitting that in the present writ petition the petitioner has sought execution of orders passed by the revenue authorities including revisional order passed under Section 122-B (4-A) by the Additional District Magistrate, Sultanpur. He submits that grievance of the petitioner can be suitably redressed by moving an application under Chapter V of the U.P. Revenue Code, 2006, which Chapter is for execution of orders passed by the revenue authorities. In the said Chapter detailed procedure has been laid down for execution of such orders and petitioner may adequately moved an application under the relevant provisions for redressal of his grievance.

8. Learned counsel for the petitioner at this stage submits that he may be granted liberty to file an application under Chapter V of the U.P. Revenue Code, 2006 for redressal of his grievance.

9. In view of above, present writ petition is **disposed of** with liberty to the petitioner to move appropriate application under the relevant provisions of Chapter V of the U.P. Revenue Code, 2006, seeking execution of orders passed by the revenue authorities. In case any such application is moved by the petitioner same shall be considered and proceeded with by the competent authority expeditiously, in accordance with law.

Order Date :- 30.10.2023

A. Verma

(Alok Mathur, J.)