

Court No. - 18

Case :- WRIT - C No. - 9600 of 2023

Petitioner :- Suneel Kumar

Respondent :- Commissioner, Devipatan Mandal, Gonda And Others

Counsel for Petitioner :- Durga Prasad, Abhishek Kumar Singh

Counsel for Respondent :- C.S.C.

Hon'ble Saurabh Lavania, J.

Heard Sri Durga Prasad, learned counsel appearing for the petitioner and Sri Hemant Kumar Pandey, learned State counsel.

The present petition has been filed for the following main reliefs:-

"(a). Issue a writ, order or direction in the nature of Certiorari thereby quashing the impugned orders of dated 26.2.2020, 28.1.2021 & 28.5.2022 contained as Annexure no. 1, 2&3 to the writ petition.

(b). Issue a writ, order or direction in the nature of Mandamus thereby restrained the opposite party no. 7 & 8 not to make any construction over the land Gata no.2037, situated at Village & Post- Payagpur, Tehsil- Payagpur, District- Bahraich, belongs to petitioner."

At the very outset, Sri Hemant Kumar Pandey, learned State counsel says that in view of sub-section (4) of Section 24 of U.P. Revenue Code, 2006 (in short "Code of 2006"), the petitioner is having remedy of filing a revision under Section 210 of the Code of 2006 challenging the orders assailed in this petition. As such, the present petition is not liable to be entertained.

Section 24 of the Code of 2006, referred, is quoted hereunder:-

"24. **Disputes regarding boundaries.** - (1) The Sub-Divisional Officer may, on his own motion or on an application made in this behalf by a person interested, decide, by summary inquiry, any dispute regarding boundaries on the basis of existing survey maps or, where they have been revised in accordance with the provisions of the Uttar Pradesh Consolidation of Holdings Act, 1953, on the basis of such maps, but if this is not possible, the boundaries shall be fixed on the basis of actual possession.

(2) If in the course of an inquiry into a dispute under sub-section (1), the Sub-Divisional Officer is unable to satisfy himself as to which party is in possession or if it is shown that possession has been obtained by wrongful dispossession of the lawful occupant, the Sub-Divisional Officer shall-

(a) in the first case, ascertain by summary inquiry who is the person best entitled to the property, and shall put such person in possession;

(b) in the second case, put the person so dispossessed in possession, and for that purpose use or cause to be used such force as may be necessary and shall then fix the boundary accordingly.

(3) Every proceeding under this section shall, as far as possible, be concluded by the Sub-Divisional Officer within three months from the date of the application.

(4) Any person aggrieved by the order of the Sub-Divisional Officer may prefer an appeal before the Commissioner within 30 days of the date of such order. [The order of the Commissioner shall, subject to the provisions of Section 210, be final]."

On being confronted on the aforesaid aspect of the case, learned counsel for the petitioner says that he may be permitted to withdraw the present petition with liberty to the petitioner to approach the Authority concerned under the Code of 2006 challenging the orders impugned.

The aforesaid has not been opposed.

In view of above, the present petition is ***dismissed*** as withdrawn with liberty, as prayed for.

Office is directed to return certified copies of the documents annexed with this petition to the learned counsel for the petitioner as per Rules in this regard.

Order Date :- 2.11.2023

Arun/-