

**Court No. - 17**

**Case :-** WRIT - C No. - 9648 of 2023

**Petitioner :-** Surendra Kumar Maurya

**Respondent :-** State Of U.P. Thru. Chairman, Board Of Revenue, U.P. Lucknow And 9 Others

**Counsel for Petitioner :-** Mahesh Chandra Shukla

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

**Hon'ble Alok Mathur,J.**

1. Heard Sri M.C. Shukla, learned counsel for petitioner as well as learned Standing Counsel for respondent No. 1 to 5.

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 obstacle impedes the free use of public road north to south/path or common land of vilalge are obstruct the road or water course of source of water and removal of such obstacle under section 26 of U.p. Land Revenue Code 2006 in land Khata NO. 00587, gata No. 111, area 2.7580 hectare abadi land of the road situated at Village Agasand, Kursi, vikas Khand Nidura, police Station Kursi, Tahsil Fatehpur, District Barabanki.

4.. Learned counsel for petitioner submits that private respondents 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 private respondents 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 :- 3.11.2023**

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