

Court No. - 17

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 1030 of 2023

Petitioner :- Satyadev Dubey

Respondent :- State Of U.P. Thru. Secy. Revenue, Lko. And 5 Others

Counsel for Petitioner :- Vijay Bahadur Singh

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

Hon'ble Alok Mathur,J.

1. Heard Sri Vijay Bahadur Singh, learned counsel for petitioner as well as learned Standing Counsel for respondent Nos. 1 to 5 and Sri Govind Kumar Chaurasiya, Advocate holding brief of Sri Mohan Singh, learned counsel for respondent No. 6.

2. It has been alleged by the petitioner in the present public interest litigation that respondent No. 6 which is the gaon sabha is encroaching upon gata No. 425594 area 0.010 hectare situated at Villager Rekhauna, Pargana - Paschim Rathh, Tahsil - Beekapur, District Ayodhya which is recorded as Nali.

3. According to the petitioner instead of a nali, a chak-marg is existing in the said plot and there is no drain/nali due to which entire area get submerged and the villagers are suffering on account of the same.

4. In the writ petition, a report of the Sub-Divisional Magistrate has also been annexed where an inquiry was conducted and in the inquiry, it was found that a chakmarg is existing on the said plot which is utilized by all the villagers and no nali could be found.

5. In the aforesaid circumstances and also from the report of SDM, it transpires that a chakmarg is existing on Plot No. 425/594 of the said village. The Chakmarg is also a public utility land which is utilized by the villagers and no such direction can be given in writ proceedings for demolition of the Chakmarg and for construction of a nali. The gaon sabha which is a third tier of democracy as per Constitution is fully empowered to look into such matters and take decisions.

6. The Revenue record only depicts the nature of land and the same can be suitably modified and amended as per procedure prescribed under the U.P. Revenue Code. Even if the averments

in the writ petition are presumed to be correct, and the plot is recorded as 'nali', the same can be suitably corrected/modified to 'chackmarg' in accordance with law. In case the petitioner has any grievance with regard to flooding due to non-existence of the drain over the said plot, it is appropriate to move an appropriate application to the competent authority who shall pass necessary orders in accordance with law.

7. No direction as prayed by the petitioner can be granted in the present public interest litigation.

8. With the above observations / directions, the public interest litigation is **disposed of**.

(Alok Mathur, J.)

Order Date :- 6.11.2023

Ravi/