

Court No. - 17

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 1040 of 2023

Petitioner :- Dharm Raj

Respondent :- State Of U.P. Thru. Prin. Secy. Deptt. Of Revenue Civil Sectt. Lko. And 5 Others

Counsel for Petitioner :- Arun Kumar, Sunil Kumar

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

Hon'ble Alok Mathur, J.

1. Heard learned counsel for the petitioner, learned Standing counsel for respondent No.s 1 to 4 and Sri Govind Kumar Chaurasiya holding brief of Sri Mohan Singh for the Gaon Sabha - respondent No.5.

2. The petitioner by way of this public interest petition is seeking a direction to respondent No.s 2 to 4 to take action against the private respondent and evict him from the public utility land of gata No.118 area 0.3420 hectare situated in Village Bayalmau, Pargana Fatehpur, Tehsil Ram Nagar, District Barabanki.

3. It has been submitted on behalf of the petitioner that the said land is recorded as *Category 6-1/non agricultural land-waterlogged area, rasta* and has been illegally encroached upon by private respondent. It has further been stated that proceedings under Section 67 of U.P. Revenue Code were initiated and it was found that private respondent is encroaching upon the said land and consequently the proceedings under Section 67 have been finalized and direction for eviction has been issued and penalty has also been imposed vide order dated 26.7.2019. The private respondents have moved an application for recall of the said order which has also been rejected vide order dated 23.10.2021. Despite the aforesaid orders the private respondent continues to encroach upon the public utility land and in these circumstances present writ petition has been filed seeking a direction for their eviction.

4. Learned Standing counsel, on the other hand, has submitted that the petitioner has equally efficacious and alternate remedy under Revenue Code Manual where under Chapter V there is specific provision for execution of the order of the revenue court under clause 460.

5. Learned counsel for the petitioner, at this state submits that he maybe permitted to withdraw this petition with liberty to file appropriate application for execution under the said Manual.

6. In view of the above, it is provided that in case such an application is filed, the competent authority shall consider and decide the same expeditiously.

7. Subject to aforesaid observation the present petition is **dismissed as not pressed.**

(Alok Mathur, J.)

Order Date :- 7.11.2023
RKM.