

Court No. - 6

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 1081 of 2023

Petitioner :- Lalta Prasad

Respondent :- State Of U.P. Thru. Addl. Chief Secy. (Revenue) Civil Sectt. Lko And 11 Others

Counsel for Petitioner :- Saryu Prasad Tiwari

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

Hon'ble Rajnish Kumar,J.

1. Heard Sri S.P. Tiwari, learned counsel for the petitioner, Sri Yogesh Kumar Awasthi, learned Standing Counsel and Sri Govind Kumar Chaurasiya, Advocate holding brief of Sri Mohan Singh, learned counsel for the respondent no.12.

2. Learned counsel for the petitioner submits that despite the order of eviction dated 16.09.2022 passed against the private respondents no.5 to 11, contained in Annexure Nos.1 to 7, the same have not been executed till date, therefore the petitioner is constrained to approach this Court by means of the present Public Interest Litigation and prays for execution of the aforesaid orders.

3. Learned Standing Counsel, on the basis of instructions, submits that respondent no.5 is dead and the respondent nos.6,7,8,9,10,11 have filed appeal against the aforesaid orders of eviction on 09.12.2022,02.01.2023,09.12.2022, 20.01.2023, 01.02.2023 and 03.10.2023 respectively, in which the next date fixed is 18.12.2023 and further action can be taken only after their disposal. However this Public Interest Litigation has been filed without verifying the aforesaid correct facts and also against a dead person and also without any averment as to whether any appeal or revision has been filed or not. Therefore this public interest petition is nothing but misuse of the process of court and against the law laid down by the Hon'ble Supreme Court. Therefore this petition is liable to be dismissed with cost. Even otherwise this P.I.L has been filed by the petitioner to settle his private dispute with the private respondents, because it is admitted case of the petitioner in the representation dated 09.12.2019 contained in Annexure No.19 to the petition that the way and waste pipe of the petitioner have been obstructed by the private respondents.

4. Having considered the submissions of learned counsel for the parties and on perusal of documents placed on record with this petition, it is apparent that the petitioner has filed this petition without verifying the correct facts and against a dead person.

He has also not stated in the petition that any appeal or revision has been filed against the impugned orders or not, whereas appeals filed by the private respondents i.e. the alleged encroachers are pending, whereas as per the settled law the public interest litigation should be filed after making thorough enquiry and verifying the correct facts.

5. Perusal of the representation moved by the petitioner, contained in Annexure No.19 to the petition, also indicates that there is a personal dispute between the petitioner and the private respondents, which the petitioner is trying to get settled also in the garb of illegal encroachment made by the private respondents through P.I.L., for which purpose he had earlier approached this Court by filing P.I.L. No.21060 of 2019, which was disposed of with liberty to the petitioner to approach the competent/prescribed authority under the provisions of U.P. Revenue Code 2006 with a direction to decide the case expeditiously and preferably within a period of one year. When the case was not decided within the time provided by this Court, the petitioner also filed Contempt Petition No.1741 of 2020 but it has never been pointed out to the Court. Now this petition has been filed, therefore the petitioner in the garb of encroachment of respondents is pursuing since long instead of availing the appropriate remedy in regard to personal dispute, which is not the purpose of public interest litigation. Therefore this petition is liable to be dismissed with heavy cost.

6. At this stage, learned counsel for the petitioner submits that the petition may be dismissed as withdrawn. However, in view of above, it cannot be permitted without cost because, this request has been made only after the aforesaid has been pointed out.

7. In view of above, the petition is **dismissed** as withdrawn with a cost of Rs.10,000/- , which shall be deposited by the petitioner with the Senior Registrar of this Court within a period of two weeks from today, failing which the same shall be recovered by the Senior Registrar of this Court from the petitioner forthwith as arrears of land revenue.

7. However, the appeals filed by the respondents, against the orders of eviction, shall be decided in accordance with law, on their own merits expeditiously.

Order Date :- 20.11.2023

Akanksha