

Court No. - 17

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 1096 of 2023

Petitioner :- Ram Saran Tiwari

Respondent :- State Of U.P. Thru. Prin. Secy. Panchayati Raj, Civil Sect. Lko. And 9 Others

Counsel for Petitioner :- Nisha Verma

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

Hon'ble Alok Mathur, J.

1. Heard Ms. Nisha Verma, learned counsel for petitioner as well as learned Standing Counsel for respondent No. 1 to 4.
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 encroachment over the public land situated at village NIyamatpur, pargana - rudauli, TAsil - Ram Snehi Ghat, District - Barabanki which are trying to occupy by the private respondent
4. Learned counsel for petitioner submits that respondent Nos 6 to 10 have illegally encroached upon gata No. 15, 62, 128, 474, 481, 482 486, 129 situated at aforesaid village despite the fact that the same is public utility land i.e. pathway, Kabristhan, Harijan abadi, Khalihan, Marghat etc. as recorded in revenue record. He further submits that petitioner has given several complaints regarding the illegal encroachment which has been done by the respondent No. 4 to 6 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 & 67 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 & 67 of U.P. Revenue Code and 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 :- 24.11.2023

Ravi/