

Court No. - 1

Case :- WRIT - C No. - 10344 of 2023

Petitioner :- Sunder Lal

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

Counsel for Petitioner :- Mahesh Prasad

Counsel for Respondent :- C.S.C.

Hon'ble Attau Rahman Masoodi,J.

Hon'ble Om Prakash Shukla,J.

1. Heard learned counsel for the petitioner and Shri Nishant Shukla, learned Additional Chief Standing Counsel for State-respondents.

2. By means of the present writ petition, the petitioner-Sunder Lal, seeks issuance of a writ of mandamus commanding/directing the respondent No.3 to stop the interference in construction of the Awas under the Pradhan Mantri Awas Yojna over the ancestral old house of the petitioner.

3. A preliminary objection as to the maintainability of the present writ petition has been raised that the present writ petition has raised a grievance with respect to a private dispute which may not be amenable to writ jurisdiction.

4. To repel the preliminary objection raised by learned Additional Chief Standing Counsel, it is submitted by learned counsel for the petitioner that though a civil suit instituted by respondent No.5 is pending before the competent civil Court for permanent injunction but the competent civil Court has not passed any order granting any injunction in favour of the said respondent. It is further submitted that the petitioner has not encroached upon any part of the land as alleged but he is intending to raise construction upon the land over which a *kutchha* construction exists.

5. It is after demolishing the *kutchha* construction that the petitioner would proceed to construct the house for utilising the funds sanctioned in his favour under Pradhan Mantri Awas Yojana. An application clarifying the position as regards the

civil proceedings has been filed before the Sub Divisional Magistrate concerned as contained in Annexure No.2 to the writ petition.

6. Without entering into the merit of the case, we hereby direct the Sub Divisional Magistrate concerned to carry out the necessary spot inspection and submit a report before the Court concerned in the pending suit. The Court concerned may accordingly pass necessary order after hearing both the parties on the report so submitted.

7. The petitioner is stated to be a poor and differently abled person. Let a copy of this order be sent to Secretary, District Legal Services Authority, who may take necessary measures to provide legal aid to the petitioner on examination of his financial status.

8. With the aforesaid direction, the writ petition is **disposed of**.

(Om Prakash Shukla, J.) (Attai Rahman Masoodi, J.)

Order Date :- 28.11.2023/Shubhankar