

Court No. - 6

Case :- WRIT - C No. - 10522 of 2023

Petitioner :- Mohd. Sageer

Respondent :- State Of U.P. Thru. Collector/ D.M., Ayodhya And Others

Counsel for Petitioner :- Ajay Kumar Pandey

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

Hon'ble Rajnish Kumar,J.

1. Heard Sri Ajay Kumar Pandey learned counsel for the petitioner, Sri Abhishek Srivastava learned Standing counsel and Sri Vijay Kumar Yadav holding brief of Sri Mohan Singh learned counsel for the respondent no.5.

2. Learned counsel for the petitioner submits that the petitioner was granted a housing Patta on 28.06.2003 in accordance with law. Rajesh Kumar Singh, on account of some village rivalry, had filed an application for cancellation of aforesaid Patta against certain persons including the petitioner, in which a report was submitted that the petitioners are in possession of the land in dispute, thereafter, an application for withdrawal of the case was filed by the applicant therein on the ground that since the petitioner and other lease holders are having their possession on the land in dispute, therefore, he has no objection and the same be dismissed, accordingly, the case no.4936 of 2022 was dismissed by means of the order dated 31.01.2023.

3. He further submits that thereafter, the opposite party nos.3 and 4 filed another application under Section 66 of the U.P. Revenue Code, 2006 for cancellation of Patta against certain persons including petitioner, on account of village rivalry. The petitioner has filed an objection against the application taking a plea that the application is not maintainable in view of Section 67(2) of the U.P. Revenue Code, 2006 but instead of considering the same and specific report submitted by the revenue authorities that the petitioner is in possession of the land in dispute, the opposite party no.2/Additional Collector/Additional District Magistrate (Admin) Ayodhya is proceeding with the case on the ground that the report has not been submitted in regard to the eligibility of the petitioner and others on the date of allotment which cannot be done and a direction may be issued to the opposite party no.2 to consider the preliminary objection of the petitioner first.

4. He further submits that the opposite party no.3 had filed P.I.L. no.371 of 2023 which was disposed by means of the order dated 02.05.2023 with a direction to the authorities to ensure that the public utility land of the Gaon Sabha concerned shall be

maintained as public utility land, for that, all the required exercise may be carried out strictly in accordance with law and direction issued by this Court has already been complied and public utility land has been maintained.

5. Per contra, learned Additional Chief Standing counsel submits that while disposing of the PIL filed by the opposite no.3, by means of the order dated 02.05.2023, this Court has specifically observed, which is in the nature of direction, that the Case no.D202304230000467 (Mohan Lal & ors vs Nankoo Prasad & ors) under Section 66 of U.P. Land Revenue Code, 2006 would be decided on merits by affording opportunity of hearing to the parties concerned. Therefore, the contention of learned counsel for the petitioner is misconceived and not tenable and the case filed against the petitioner is to be decided on merits.

6. Having considered the submissions of learned counsel for the petitioner and specific observation by this Court in Public Interest Litigation (PIL) no.371 of 2023 in order dated 02.05.2023 that the case is to be decided on merits, the contention of learned counsel for the petitioner is misconceived and not tenable. Even, the petitioner could not have filed this petition for such a prayer, when there is specific observation/direction by this Court for deciding the case on merit. Therefore this petition is misconceived and not tenable.

7. Dismissed, accordingly.

8. Before parting with the case this Court finds that case filed against the petitioner is being adjourned repeatedly on the ground of strike of lawyers, despite specific observation by this Court for deciding the case on merit. Therefore it is directed that the case shall be decided expeditiously in accordance with law and without granting unnecessary adjournment to either of the parties.

(Rajnish Kumar,J.)

Order Date :- 4.12.2023/Harshita