

Court No. - 9

Case :- WRIT - C No. - 10489 of 2023

Petitioner :- Azaz Ahmad And Others

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

Counsel for Petitioner :- Amar Nath Dubey, Neetendra Singh

Counsel for Respondent :- C.S.C.

Hon'ble Rajan Roy, J.

Hon'ble Manish Kumar, J.

Heard learned counsel for the petitioner and Sri P.K. Pandey, Advocate holding brief of Sri Dinesh Kumar Ojha, learned counsel who has filed an application for impleadment.

The grievance of the petitioner is that a road is being constructed which is passing through Gata nos.182, 173Ga, 174 situated at Village-Shukulpur, Pargana and Tehsil-Sadar, District- Pratapgarh. The said Gatas are bhumidhari lands. There are various co-sharers including the petitioners and the applicant seeking impleadment. Without acquiring or purchasing the said land, the said road is being constructed. There is no partition between the two co-sharers as per law. Learned counsel for the applicant seeking impleadment however says that oral partition had taken place and the co-sharers are in possession of their shares as per the oral agreement.

There are factual disputes involved. However, the moot point is as to whether the road, if it is being constructed by the State Government or any agency of the State, could be constructed on a bhumidhari land without acquiring or purchasing the same especially if as claimed by the petitioners, there has been no partition unless of course, partition has already taken place and the co-sharers are agreeable to such construction. However, without recording any conclusive opinion on any of the issues involved, let the petitioners approach the concerned opposite party who is undertaking the construction who shall get the facts verified in the light of the law on the subject and then take such decision as is deemed appropriate and permissible in law. Any action taken in the meantime, shall abide by such decision. The decision shall be taken by the concerned authority within three weeks. If the parties are aggrieved any further they may avail remedies as may be prescribed in law.

With these observations/ direction, the petition is **disposed of**.

(Manish Kumar, J.) (Rajan Roy, J.)

Order Date :- 2.12.2023/Shanu/-