

Court No. - 1

Case :- WRIT - C No. - 10529 of 2023

Petitioner :- Subhan Allaha

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

Counsel for Petitioner :- Rajeev Kumar Mishra Rudra, Sonam
Kumari Thapa

Counsel for Respondent :- C.S.C.

Hon'ble Attau Rahman Masoodi, J.

Hon'ble Om Prakash Shukla, J.

1. Heard Ms. Sonam Kumar Thapa, learned counsel for the petitioner and Mr. Manish Mishra, learned Standing Counsel for State-respondent Nos.1 to 4.

2. By means of present writ petition, the petitioner has sought the following reliefs:-

"I. Issue a writ of mandamus thereby commanding the opposite parties to carry out a thread bare investigation involving the illegal occupancy of the Khaliyan bhoomi so far as the same related to the occupancy of the petitioner.

II. Issue a writ of mandamus, commanding the opposite parties to carry out the process of re-examination of the "Khaliyan Bhoomi" as the previous demarcation procedure was faulty, and carried out in haste and negligence and more so in the absence of the pradhan and also due to the fact that the petitioner in PIL No.733 of 2023, O.P. No.5 along with some other residents have illegal occupancy upon the said land.

III. Issue an order or direction, commanding the opposite party no.2 to 4 to take decision on the representation/application of the petitioner.

IV. Issue an order or direction, commanding the O.P. No.3 to take decision on the application u/s 101(1)-KHA of the U.P. Revenue Code, 2006 so preferred by the petitioner along with several other aggrieved persons, before O.P. No.3."

3. The encroachment upon the gram sabha land is not disputed by the petitioner. The proceedings under Section 67 of the U.P. Revenue Code, 2006 have already been drawn and

decided against the petitioner, therefore, the dispossession has become eminent. The petitioner, however, has initiated proceedings under Section 101(1)-Kha of U.P. Revenue Code, 2006 for exchange of an equal area of land in favour of the gram sabha. It is also submitted that the house in question has been constructed by the petitioner, who is residing there since more than four decades.

4. In these circumstances, the proceedings under Section 101(1)-Kha of U.P. Revenue Code, 2006 are directed to be decided expeditiously and preferably within a period of six months from the date a certified copy of this order is filed.

5. Shri Manish Mishra, learned Standing Counsel, has pointed out that some formal defects have not been removed in the application filed under Section 101 (1)-Kha of U.P. Revenue Code, 2006 and unless the defects are removed, the application cannot be proceeded with.

6. We also leave it open to the petitioner to remove the defects and fulfill the requisite formalities within a month from today.

7. For a period of six months, status quo as existing shall be maintained.

8. The writ petition is, accordingly, **disposed of**.

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

Order Date :- 6.12.2023
Shubhankar