

Court No. - 4

Case :- CONTEMPT APPLICATION (CIVIL) No. - 4296 of 2023

Applicant :- Vinod Kumar Yadav

Opposite Party :- Dhirendra Kumar, Sub Divisional Magistrate, Pratapgarh And Another

Counsel for Applicant :- Rakesh Kumar Modanwal

Hon'ble Rajesh Singh Chauhan,J.

1. Heard.

2. This Court has passed the order dated 06.12.2023, which reads as under:-

"1. Heard learned counsel for the petitioner.

2. Attention has been drawn towards the order dated 11.05.2023 passed by this Court in Public Interest Litigation (PIL) No.394 of 2023, which reads as under:-

"Heard Sri Rakesh Kumar Modanwal, learned counsel for the petitioner and Sri Yogesh Kumar Awasthi, learned Standing Counsel for the State-opposite parties. However, notice on behalf of opposite party No.5/ Gaon Sabha has been accepted by Sri Pankaj Gupta, learned counsel.

In view of the proposed order, the notices to private opposite parties are hereby dispensed with.

By means of this writ petition, the petitioner has prayed for the following reliefs:-

"(A) to issue a writ, order or direction in the nature of mandamus directing the respondent concern to remove unauthorized encroachment over arazi No.416 area 0.09 hectare recorded as chak road in the revenue record situated in Village-Atheha, Pargana-Atheha, Tehsil-Lalganj, District-Pratapgarh.

(B) to issue a writ, order or direction in the nature of mandamus directing the respondent Nos.2 and 3 concerned to initiate proper legal action against the unauthorized occupants i.e. respondent Nos.6, 7 & 8 of the said village for causing revenue loss to the petitioner in the interest of justice.

(C) to issue a writ, order or direction in the nature of mandamus commanding and directing the learned court below to decide the Case Nos.01365/2020, Computerized Case No.T202002570201365, T202002570201366 and T202002570201367 regarding arazi No.416 area 0.09 hectare situated in Village-Atheha, Pargana-Atheha, Tehsil-Lalganj, District-Pratapgarh."

Sri Yogesh Kumar Awasthi, learned Standing Counsel has produced the instructions letter dated 02.05.2023 preferred by the Tehsildar, Tehsil-Lalganj, District-Pratapgarh addressing to the Chief Standing Counsel annexing therewith the comments of the case, the same is taken on record.

As per the aforesaid instructions, those three cases which are pending consideration against the illegal encroachers filed under Section 67 (1) of U.P. Revenue Code, 2006 wherein the next date has been fixed for 15.05.2023 and he has instructions to say that the Competent Revenue Authority shall decide all the aforesaid three cases strictly in accordance with law by affording an opportunity of hearing to the parties concerned with expedition.

Having heard learned counsel for the parties and having perused the material available on record as well as the instructions letter dated 02.05.2023 since the petitioner has himself made request vide prayer (C) to the effect that the aforesaid three cases be decided with expedition and in those cases the next date has been fixed on 15.05.2023, therefore, without entering into merits of the issue, I hereby dispose of finally this Public Interest Litigation Petition at the admission stage directing the Competent Revenue Authority to decide the aforesaid three cases strictly in accordance with law by affording an opportunity of hearing to the parties concerned within the time so prescribed under Section 67 of U.P. Revenue Code, 2006 and the rules thereof. The Competent Revenue Authority shall ensure that the public utility land is free from all the encroachments inasmuch as any encroachment over the public utility land is not only illegally encroached but such encroachment causes inconvenience to the villagers of the village."

3. Learned counsel for the petitioner has stated that copy of aforesaid order has been served upon the authority concerned on 02.06.2023 through Registered Post. He has further submitted that the Hon'ble Court was informed on 11.05.2023 that the proceedings in question shall be decided on 15.05.2023 but when those proceedings have not been decided on 15.05.2023, then the representation has been preferred by the petitioner.

4. This is a sorry state of affair that if any information is provided to the Court and on the basis of such information, the petition is decided, the authority concerned is duty bound to abide by such order. Therefore, in such cases, serious view may be taken by the Contempt Court.

5. Learned counsel for the petitioner is directed to provide two copies of the contempt petition to Sri Sunil Bajpai, learned Addl. Chief Standing Counsel, during the course of the day, who shall seek specific written instructions from opposite party no.2, namely, Lal Dhar Yadav, Tehsildar, Lalganj, District- Pratapgarh as to why the proceedings have not been concluded within time so stipulated; further, as to whether the proceedings have been decided and if those proceedings have been decided, copy thereof shall be shown to the Court on the next date and if the proceedings have not been decided, the specific reason shall be assigned so that further order could be passed on the next date.

6. If the instructions are not provided to the learned Addl. Chief Standing Counsel by the next date of listing, opposite party no.2 shall appear in person alongwith the records.

7. List on 20.12.2023 as fresh."

3. Sri Mohit Jauhari, learned Standing Counsel has produced copy of instructions letter dated 19.12.2023 preferred by the Sub Divisional Officer, Lalganj, Pratapgarh addressing to the Chief Standing Counsel of this Court enclosing therewith copy of order dated 01.11.2023 passed by the Tehsildar, Lalganj, Pratapgarh deciding the proceedings of Section 67 of the U.P. Revenue Code, 2006, the same is taken on record and copy of the aforesaid order is provided to the learned counsel for the petitioner also.

4. In the aforesaid order, it has been categorically indicated that the illegal encroachment shall be removed forthwith and the illegal encroacher shall be liable to pay compensation of Rs.30,000/- and fine/cost to the tune of Rs.1,000/-.

5. In the wake of aforesaid development, nothing remains to be adjudicated in the present contempt petition.

6. Accordingly, the present contempt petition is **dismissed**.

7. Notice, if any, stands discharged.

8. It would be necessary to indicate here that if any appropriate order has been passed on 01.11.2023 for removal of illegal encroachment, then it is expected that the aforesaid order be executed, strictly in accordance with law, within time so framed under the Statute.

[Rajesh Singh Chauhan,J.]

Order Date :- 20.12.2023
RBS/-