

Court No. - 3

Case :- WRIT - C No. - 10729 of 2023

Petitioner :- Sidhdnath

Respondent :- Zila Adhikari , Bahraich U.P. And Others

Counsel for Petitioner :- Shiv Pravesh Dhar Dubey, Akash Dhar Dubey

Counsel for Respondent :- C.S.C., Pankaj Gupta

Hon'ble Vivek Chaudhary, J.

Hon'ble Manish Kumar, J.

Heard learned counsel for the petitioner and learned Additional Chief Standing Counsel.

Present writ petition has been filed by the petitioner with the following main prayers:-

"(i) Issue a writ, order or direction in the nature of Mandamus thereby commanding and directing the Lekhpal-Jalim Nagar to comply the order passed by the Up Zila Adhikari, Mihipurwa, District- Bahraich dated 28.06.2023 as contained in Annexure no. 2 to this writ petition.

(ii) Issue a writ order or direction in the nature of Mandamus thereby commanding and directing the Station House Officer of Police Station-Motipur, District-Bahraich to comply the order passed by the Sub-Divisional Magistrate, Mihipurwa, District-Bahraich dated 08.05.2023 as contained in Annexure No. 1 to this writ petition."

The petitioner has approached this Court claiming that a public passage is being obstructed by private respondents no.7 to 10 and the road is blocked for the petitioner.

Learned Additional Chief Standing Counsel raised preliminary objection stating that the petition has an alternative remedy to file an application under Section 26 of the U.P. Revenue Code, 2006 before the respondent no.3 i.e. Tehsildar, Tehsil-Mihipurwa, District- Bahraich to take appropriate proceedings under section 133 CrPC.

In the given circumstances, learned counsel for the petitioner prays that he may be permitted to move an application before the respondent no.3 i.e. Tehsildar, Tehsil- Mihipurwa, District-

Bahraich under Section 26 of the U.P. Revenue Code, 2006.

In view thereof, petitioner is permitted to file an application before respondent no.3 i.e. Tehsildar, Tehsil- Mihipurwa, District- Bahraich under Section 26 of the U.P. Revenue Code, 2006 raising all his grievance, annexing therewith a copy of this writ petition along with annexures and all the documents in support of his claim within a period of two weeks from today along with a certified copy of this order.

In case such an application is moved by petitioner, respondent No.3- Tehsildar, Tehsil- Mihipurwa, District- Bahraich shall consider and decide the same in accordance with law by a reasoned and speaking order within a period of three months from the date a certified copy of this order along with the application is placed before him.

It is made clear that this court has not applied itself on the merits of the case and all questions are left open to be considered and decided by the competent authority in accordance with law.

With the aforesaid directions, present writ petition is **disposed of**.

(Manish Kumar, J.) (Vikek Chaudhary, J.)

Order Date :- 12.12.2023

Manoj K.