

Court No. - 1**Case :-** WRIT - C No. - 10963 of 2023**Petitioner :-** Rapti Residents Associations For Welfare Lko.

Thru.Auth. Signatory Abhay Shanker Singh And Another

Respondent :- Lucknow Development Authority Lko. Thru. Vice Chairman And 2 Others**Counsel for Petitioner :-** Anuj Dayal,Ankit Kumar Trivedi**Counsel for Respondent :-** Ratnesh Chandra**Hon'ble Attau Rahman Masoodi,J.****Hon'ble Om Prakash Shukla,J.**

1. Heard learned counsel for the petitioners and Sri Ratnesh Chandra learned counsel who has put in appearance on behalf of the Lucknow Development Authority.

2. This writ petition prays for the following reliefs :-

(i) To issue a writ, order or direction in nature of certiorari thereby quashing the impugned letter/order dated 2.12.2023 passed by the opposite party no. 2(annexed as Annexure No. 1 to this petition) as well as other illegal and arbitrary proceedings with respect to demolition/removal of constructed temple in Rapti Apartment, Gomti Nagar Vistar, Lucknow.

(ii) To issue a writ, order or direction in nature of mandamus commanding the opposite party nos. 1 and 2 to initiate any action in pursuant to impugned letter/order dated 2.12.2023 passed by opposite party no. 2(annexed as Annexure No. 1 to this petition) and other consequential action with respect to demolition/removal of constructed temple in Rapti Apartment, Gomti Nagar Vistar, Lucknow.

(iii) To issue a writ, order or direction in nature of mandamus commanding the opposite parties no. 1 and 2 not to initiate any action with respect to demolition/removal of constructed temple in Rapti Apartment, Gomti Nagar Vistar, Lucknow and further be directed not to interfere in the management of the petitioner association.

3. It is not in dispute that Rapti Apartment, Gomti Nagar Vistar, Lucknow which is a multistoreyed building constructed by the Lucknow Development Authority has some common space and park open to all the residents. This common area appurtenant to the multistorey building as per sanctioned plan is not open to be encroached upon whether for personal or any other purpose.
4. Learned counsel for the petitioners has submitted that the management of the building complex is handed over to the Residents Welfare Association. Thus, the Residents Welfare Association by majority are competent to utilize any part of the common area for the purpose other than the sanctioned plan viz. recreational or religious.
5. The religious use of common area for temple, mosque, church or Gurudwara is sought to be interpreted as permissible within the fold of sanctioned plan once the building is handed over to Residents Welfare Association.
6. Sri Ratnesh Chandra, learned counsel for the LDA has submitted that the common utility area is to promote the residential interest of the Residents Welfare Association as well as the recreational purpose which is common to every denomination and the law would not allow the common utility area to be grabbed by Residents Welfare Association

for a purpose beneficial to one denomination exclusively like a place of worship. The object is to strengthen the bond of brotherhood, inclusive growth, tolerance and unity in diversity.

7. It is further submitted that any such activity as is sought to be legitimized through these writ proceedings would create chaos and unrest in all the residential apartments. Festive rituals and place of worship are two different practices which are inclusive and mutually exclusive. What is mutually exclusive cannot be permitted in common utility area for the benefit of any specific denomination, however, all the activities which are inclusive like cultural, health and recreational are though permissible but without any encroachment or permanent construction. In other words, what is mutually exclusive is permissible within one's self owned space whereas the common space is open for the activities which are mutually inclusive. The object is to develop a tolerant multi-cultural society which forms the bedrock of Bharat.
8. The State or its instrumentalities would adhere to the master and Zonal plans strictly so that no part of common utility land is encroached upon in violation of law.

9. Thus, the relief as prayed for is non-maintainable and the writ petition being bereft of any merit is accordingly **dismissed.**

10. Any action by the development authority for removal of the unauthorized construction and encroachment shall be implemented without fail and with utmost respect to the sentiments of the Residents.

Order Date :- 16.12.2023
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