

Court No. - 2

Case :- WRIT - C No. - 5612 of 2024

Petitioner :- Hasmullah

Respondent :- District Magistrate , Balrampur And Others

Counsel for Petitioner :- Prabhakar Srivastava

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

Hon'ble Alok Mathur,J.

Hon'ble Arun Kumar Singh Deshwal,J.

1. Heard Sri Prabhakar Srivastava, learned counsel for the petitioner, learned Standing Counsel on behalf of respondents No. 1 to 4 and Sri Pankaj Gupta, learned counsel for respondents No. 12.

2. The grievance of the petitioner is with regard to construction being raised by the private respondents over Gata No. 1039 area 1.0400 hectare, situated at Tengnahiya Maankot, Pargana/Tehsil & District Balrampur which is recorded as Kabristan.

3. It has been submitted by the counsel for the petitioner that the private respondents have started construction over the said land without demarcation or partition and when the petitioner came to know about the said construction, he moved an application under Section 116 of the U.P. Revenue Code, 2006 against the private respondents before the Sub Divisional Officer, Tehsil and District Balrampur which is still pending.

4. Considering the fact that the proceeding for partition has already been initiated by the petitioner before the Sub Divisional Officer, Tehsil and District Balrampur, the said authority, seized with the dispute, would have power to pass interim orders during the pendency of the said application. Accordingly, liberty is given to the petitioner to move an application before the respondent No.2 in case the private respondents are raising constructions without partition in violation of any statutory provision or rule.

5. In case such an application is made, respondent No.2 shall consider and decide the same expeditiously within next four weeks after giving opportunity of hearing to both the parties concerned. It shall be further open to respondent No.2 to consider passing an *ex parte* interim injunction in case the petitioner is unable to satisfy that adequate facts are existing where the private respondents are making illegal constructions.

6. In the light of above direction the application is **disposed of**.

(Arun Kumar Singh Deshwal,J) (Alok Mathur,J.)

Order Date :- 26.6.2024

Vandana