

Court No. - 2

Case :- WRIT - C No. - 5629 of 2024

Petitioner :- Jhagaru Chauhan

Respondent :- State Of U.P. Thru. Prin. Secy. Deptt. Of Revenue , Lko.
And Others

Counsel for Petitioner :- Anubhav Awasthi, Subhash Pandey, Vikas Yadav

Counsel for Respondent :- C.S.C.

Hon'ble Alok Mathur, J.

Hon'ble Arun Kumar Singh Deshwal, J.

1. Heard learned counsel for the petitioner as well as learned Standing counsel on behalf of respondent No.s 1 to 5.
2. In light of the proposed order notice to private respondent is dispensed with.
3. It has been submitted that the petitioner purchased a part of land of Gata No.2128 Min. situated at Village Ramnagar, Post Bajgahni, Pargana Kursi, Tehsil-Fatehpur District Barabanki vide sale agreement dated 28.4.2010 but when the petitioner requested its owner for registry of the said land, the owner denied and demanded more money. Thereafter, the petitioner filed a civil suit for permanent injunction which is still pending before Civil Judge (Junior Division), Room No.13, Barabanki. It is further submitted that opposite party No.6 purchased the adjacent land gata No.2128/5 vide sale deed dated 11.7.2023 and the husband of opposite party No.6, who in connivance with politicians and high officials is forcefully trying to dispossess the petitioner from the said land. Aggrieved by the aforesaid, the petitioner has moved representation on 14.6.2024 before District Magistrate, Barabanki which is pending and has prayed for a direction for its disposal.
4. In the aforesaid circumstances, this Court is of the considered opinion that the present dispute is clearly a private dispute between the petitioner and the private respondent which is pending before Civil Judge (Junior Division), Room No.13, Barabanki at the behest of the petitioner. Once the petitioner has availed of his statutory remedy before the civil court then the same issue cannot be adjudicated before this Court in exercise of powers under Article 226 of the Constitution of India. In case, the petitioner is aggrieved, he has adequate remedy by filing appropriate application in the pending suit itself. The relief in the suit and that claimed in the writ petition is substantially the same.

5. In view of the pending suit, which is the more appropriate remedy for the kind of relief claimed, we do not think that this petition ought to be entertained on the ground not only of availability of an alternative remedy but a remedy already availed.

6. In this view of the matter, this petition is dismissed as not maintainable.

7. This order will not prevent the petitioner in establishing his rights before the Court of competent jurisdiction.

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

Order Date :- 27.6.2024

RKM.