

Court No. - 2

Case :- WRIT - C No. - 5640 of 2024

Petitioner :- Smt. Sarla Devi Awasthi

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Deptt.
Housing And Urban Planning Lko. And Others

Counsel for Petitioner :- Rakesh Kumar, Shambhunath Mishra

Counsel for Respondent :- C.S.C., Ajeet Kumar

Hon'ble Alok Mathur, J.

Hon'ble Arun Kumar Singh Deshwal, J.

1. Heard Sri Aman Agrawal, learned counsel for the petitioner as well as learned Standing Counsel for respondent nos. 1 to 3 and Sri Ajeet Kumar, learned counsel appearing for respondent nos. 4 and 5.

2. Supplementary affidavit filed today is taken on record. By way of supplementary affidavit learned counsel for the petitioner has brought on record the demolition order dated 24.01.2024.

3. It is submitted by learned counsel for the petitioner that order dated 24.01.2024 is illegal and arbitrary inasmuch as it is only in the year 2021 that the said land was declared "green belt" and prior to which the petitioner has already completed the constructions in accordance with the map sanctioned by the competent authority. In the aforesaid circumstances, if subsequently, the land has been declared "green belt", the petitioner can be restrained from raising further constructions.

4. Learned counsel for the respondents on the other hand have submitted that the impugned order of demolition is appellable under Section 15 of the U.P. Regulations of Building Operation Act, 1958 and accordingly the petitioner has efficacious remedy of appeal against the impugned order.

5. Learned counsel for the petitioner does not dispute the aforesaid proposition and submits that petitioner may be granted liberty to assail the impugned order before the appellate authority, and prays that the respondents shall be restrained from carrying out demolition during the said proceedings.

6. Considering the fact that the petitioner has efficacious alternate remedy of appeal hence petitioner is relegated to the same. In case the petitioner files an appeal within next two

weeks alongwith an application for interim relief, the appellate authority is directed to consider the application for interim relief within two weeks thereafter and shall dispose of the same by means of reasoned and speaking order.

7. Till appropriate orders are passed on the interim relief application, the respondents are restrained from carrying out demolition in terms of impugned order dated 24.01.2024.

8. With above directions present writ petition stands **disposed of**.

Order Date :- 28.6.2024

A. Verma

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