

Court No. - 16

Case :- MATTERS UNDER ARTICLE 227 No. - 3008 of 2024

Petitioner :- Raghvendra Singh Yadav @ Bablu Yadav

Respondent :- State Of U.P. Thru. Prin. Secy. Revenue Deptt.
Lko. And 3 Others

Counsel for Petitioner :- Daya Shankar Yadav

Counsel for Respondent :- G.A.

Hon'ble Shamim Ahmed,J.

Heard Sri Daya Shankar Yadav, learned counsel for the petitioner, Sri Rajiv Kumar Verma, learned A.G.A.-I for the State as well as perused the record.

The instant writ petition has been filed seeking following main relief:-

"i. to set aside the impugned order dated 01.05.2024 passed by the opposite party no.2 in Criminal Revision No.139 of 2023 (Raghvendra Singh Vs. State of U.P. and Others) and impugned order dated 23.09.2021 passed by the opposite party no.3 in Case No.4/2020, under Section 145 Cr.P.C. (State Vs. Raghvendra Singh and Others), which are contained as Annexure No.1 & 2 to this petition, in the interest of justice."

Learned counsel for the petitioner submits that on 25.08.2020, the police of Police Station Gudamba, District Lucknow submitted a false report and initiated the proceeding under Section 145 Cr.P.C. against the 28 persons alongwith the petitioner. Thereafter, the opposite party no.3 i.e. Deputy Police Commissioner/Special Executive Magistrate North, Commissionerate, Lucknow, on the basis of aforesaid report dated 25.08.2020, called report of the Revenue Inspector. The Revenue Inspector submitted its report on 14.11.2020 with indication that Gata No.302 is consolidated number and land of area 3.198 hect. of pond is vacant and other land is recorded in the name of co-tenure holder. Thereafter, the petitioner submitted a detailed reply on 15.02.2021.

He further submits that on 23.09.2021, the opposite party no.3 passed the impugned order in Case No.4/2020, under Section 145 Cr.P.C. without considering the reply submitted by the petitioner in a very mechanical manner.

He further submits that being aggrieved, the petitioner preferred a Criminal Revision No.139 of 2023 before the opposite party no.2 i.e. Special Judge, P.C. Act-2 / Additional District and

Sessions Judge, Lucknow, which was dismissed by the learned revisional court on 01.05.2024 without considering the facts and circumstances of the case and the order dated 23.09.2021 was upheld. He further submits that aggrieved by both the orders, the present writ petition has been filed.

He further submits that the petitioner has not done any encroachment and the matter is purely civil in nature and both the orders have been passed without considering the evidence on record and no encroachment was ever made by the petitioner on the land in question.

On the other hand, learned A.G.A.-I for the State opposed the entire arguments as advanced by learned counsel for the petitioner and submits that on the basis of police report as well as report of the Revenue Inspector, the opposite party no.3 has passed the impugned order dated 23.09.2021. He further submits that even the learned Revisional Court has also dismissed the criminal revision of the petitioner on 01.05.2024, which was filed against the order dated 23.09.2021 before the learned Special Judge, P.C. Act-2 / Additional District and Sessions Judge, Lucknow. Thus, he submits that it is crystal clear that the petitioner has encroached the public land and the impugned order passed by the opposite party no.3 i.e. Deputy Police Commissioner/Special Executive Magistrate North, Commissionerate, Lucknow as well as order dated 01.05.2024 passed by opposite party no.2 i.e. Special Judge, P.C. Act-2 / Additional District and Sessions Judge, Lucknow have been correctly passed and there is no illegality or perversity in the aforesaid orders, therefore, there is no need of interference by this Court and the instant writ petition is liable to be dismissed.

He further submits that it is a summary proceedings and if the petitioner claims that he is the owner of the property and his name is recorded in the revenue record and some persons are encroaching the property, then he has a remedy to approach the competent civil court for adjudicating his right and title over the property. He further submits that even the learned Revisional Court has rightly observed that if the competent court passes any order in favour of the petitioner, then the order dated 01.05.2024 will automatically comes to an end.

After considering the arguments as advanced by learned counsel for the respective parties as well as after perusal of records, this Court is of the view that the order passed by the opposite party no.3 i.e. Deputy Police Commissioner/Special Executive Magistrate North, Commissionerate, Lucknow as well as order dated 01.05.2024 passed by opposite party no.2 i.e. Special Judge, P.C. Act-2 /

Additional District and Sessions Judge, Lucknow are just and proper as the same have been passed after considering the police report and the entire evidence available on record. This Court further finds that the learned Revisional Court has rightly observed that if the competent court passes any order in favour of the petitioner, then the order dated 01.05.2024 will automatically come to an end. Thus, this Court does not find any justification to quash the impugned orders under challenge in this writ petition.

Accordingly, the instant writ petition is **disposed of** with liberty to the petitioner to approach the competent civil court for adjudicating his right and title over the property.

Order Date :- 22.7.2024
Saurabh