

Court No. - 2

Case :- WRIT - C No. - 5656 of 2024

Petitioner :- C/M Of Azad Educational Society Lko. Thru. Secy.

Respondent :- State Of U.P. Thru. Addl. Chief Secy./Prin. Secy. Deptt. Of Urban Development Lko. And Others

Counsel for Petitioner :- Suyash Misra, Amrendra Nath Tripathi

Counsel for Respondent :- C.S.C., Namit Sharma

Hon'ble Alok Mathur, J.

Hon'ble Arun Kumar Singh Deshwal, J.

1. Heard Sri Amrendra Nath Tripathi, learned counsel for the petitioner as well as learned Standing Counsel for respondent nos. 1, 5 and 6. Sri Shirish Kumar, Advocate alongwith Sri Namit Sharma, Advocate have filed vakalatnama on behalf of respondent nos. 2 to 4, same are taken on record.

2. The dispute in the present writ petition pertains to the petitioner who is titled as Committee of Management Azad Educational Society and is with regard to the property situated at Gata No. 608 Sa measuring 7.2700 hectares out of total area of 8.785 hectares situated at Village - Natkur, Pargana - Bijnour, Tehsil - Sarojni Nagar, District - Lucknow, recorded in the name of Mr. Mahaveer Singh Thakur in the base year Khatauni of 1359 Fasli. Subsequently consolidation operations were carried out on the said area where various orders were passed by the Consolidation Officer indicating that the said land was purchased by the predecessor in interest of the petitioner.

3. The petitioner claims that he has subsequently purchased the disputed land by means of registered sale deeds executed in the year 1997. The detailed description of the sale deeds have been provided in paragraph 19 of the writ petition.

4. The present dispute has arisen due to an order passed by the Sub Divisional Magistrate dated 19.08.2023, stating that the said land has wrongly been recorded in the name of the petitioner and infact the said land is a "pasture" land and is accordingly Government property and is vested in the Nagar Nigam Lucknow. The impugned order dated 22.06.2024 has been passed relying upon the order dated 19.08.2023 which has been passed by the Sub Divisional Magistrate, stating that the disputed land is recorded as 'pasture' land on which the petitioner has in illegal occupation. He has further required the petitioner to produce documents in his favour, failing which he shall proceed to take possession and demolish the disputed structure.

5. Against the order dated 19.08.2023, passed by the Sub Divisional Magistrate, the petitioner has preferred an appeal before the Additional Commissioner (Administration), Lucknow which was registered as Case No. 2882 of 2023 which has been heard and orders have been reserved on 01.03.2024. It is stated that the judgment has been reserved and till date it has not been delivered.

6. Learned counsel for the petitioner submits that the impugned order dated 22.06.2024 is illegal and arbitrary in as much as it relies solely on the order passed by the Sub Divisional Magistrate dated 19.08.2023. The respondents were not aware of the fact that the said order has been assailed in appeal before the Additional Commissioner (Administration), Lucknow as they are not party to the said proceedings and said appeal has been finally heard and the judgment is reserved since 01.03.2024.

7. Accordingly, without entering into the merits of the controversy with regard to rights of the petitioner on the disputed property, this Court is of the considered view that no coercive action should be taken by the Nagar Nigam, Lucknow during pendency of the appeal before the Additional Commissioner (Administration), Lucknow.

8. The Additional Commissioner (Administration), Lucknow is directed to decide the matter with expedition in a maximum period of four weeks from the date of production of certified copy of this order in accordance with law.

9. It is provided that the respondent no. 2 - Nagar Nigam, Lucknow shall be at liberty to proceed with regard to the disputed property in compliance of the order to be passed by the Additional Commissioner (Administration), Lucknow in Case No. 2882 of 2023, in accordance with law.

10. With above directions the writ petition stands **disposed of**.

Order Date :- 26.6.2024

A. Verma

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