

Court No. - 2

Case :- WRIT - C No. - 10797 of 2024

Petitioner :- Smt. Kusum Gupta

Respondent :- State Of U.P. Thru. Prin. Secy. Revenue Deptt. Lko
And 4 Others

Counsel for Petitioner :- I.M. Pandey Ist, Krishna Kumar Dubey

Counsel for Respondent :- C.S.C., Anil Kumar Mishra

Hon'ble Rajan Roy, J.

Hon'ble Brij Raj Singh, J.

1. Heard.

2. The affidavit in support of the petition is not sworn by the petitioner but by her son. An endorsement should have been made in this regard by the Reporting Section which has not been made, however, we find that the reason has been given in the affidavit.

3. The petitioner claims to be undertaking a construction on her land bearing Gata No. 641/2247 regarding which there is a declaration under Section 143 of U.P.Z.A. & L.R. Act, 1950 but in the garb of the impugned order the petitioner is being restrained from raising any such construction on the ground that it is on Gata No. 641/2248. She relies upon a report Annexure-3 which was submitted for the purposes of demarcation, however, the standing counsel says that no final order has been passed as yet.

4. Let the Sub Divisional Magistrate, Pallia, District Lakhimpur Kherik get the facts verified especially with regard to the proceedings for demarcation of Gata No. 641/2247 and if no final order has been passed in the said proceedings, then, he being the competent authority should pass a final order at the earliest. Based on the result of the said exercise it will be ascertained as to whether the construction of the petitioner is being undertaken on her own Gata No. 641/2247 or on Gata No. 641/2248 as the case may be. If it is found that she is undertaking construction on her own Gata, then, the impugned order shall be revisited and withdrawn and the petitioner would not be restrained from raising the construction unless, of course, there are other grounds in law for doing so. However, if it is found that the construction is being raised on any part of Gata No. 641/2248, then, of course the impugned order shall remain as it is.

5. Till the aforesaid exercise is completed the impugned order shall not be given effect but the petitioner shall also not raise any new construction which will be permissible only after the aforesaid exercise.

6. At this stage, counsel for the Nagar Palika says that formal proceedings for demarcation have not been initiated by the petitioner under Section 24 of the U.P. Revenue Code, 2006 read with Rule 22 of the U.P. Revenue Code Rules, 2016. If it is so, then, a formal application shall be made by the petitioner as then the affected parties may have a right of objection and this order will be applicable accordingly, if the petitioner moves the application within one week and in such an eventuality the proceedings would be completed within next six weeks. If the petitioner does not move an application aforesaid, then, our order shall not come in the way of the opposite parties in proceeding as per law.

7. The petition is ***disposed of*** in the aforesaid terms.

[Brij Raj Singh, J.] [Rajan Roy, J.]

Order Date :- 18.12.2024
Santosh/-