

Court No. - 19

Case :- WRIT - C No. - 10927 of 2024

Petitioner :- Nathu Ram

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

Counsel for Petitioner :- Chhote Lal Yadav, Ajay Yadav

Counsel for Respondent :- C.S.C., Mohan Singh

Hon'ble Manish Mathur, J.

1. Heard learned counsel for petitioner and learned State Counsel for opposite parties 1 to 4 and Mr. Mohan Singh learned counsel for opposite party No.5.
2. Petition has been filed challenging order dated 28th April, 2022 passed against petition under Section 67 of the Revenue Code. Also under challenge is the appellate order dated 14th June, 2023 rejecting petitioner's appeal.
3. Learned counsel for petitioner submits that impugned orders have been passed in violation of statutory procedure prescribed with regard to Section 67. Learned counsel has placed reliance on judgments of Coordinate Benches of this court in Matters under Article 227 No. 4472 of 2023 (Ram Sumer versus State of U.P. and others) and writ Petition No. 1520 of 1998 (M/S. Jain Cold Storage and Ice Factory Balrampur versus Deputy Labour Commissioner Faizabad).
4. It is submitted that the petitioner's residence is in fact constructed over gata No. 550 but in the garb of impugned orders, there is grave apprehension that petitioner's construction over gata No. 550 would be demolished.
5. Learned counsel appearing for opposite parties has refuted submissions advanced by learned counsel for petitioner with submission that from perusal of impugned orders self it is evident that directions have been issued with regard to gata No.549 and there is no direction issued pertaining to gata No. 550. It is submitted that apprehension of petitioner even otherwise is not maintainable in view of the fact that he could very well file an application seeking demarcation of the property.
6. Learned counsel for petitioner at this stage submits that an application for demarcation has already been filed by petitioner which is yet pending consideration.

7. Upon consideration of submissions advanced by learned counsel for parties and perusal of material on record, it is evident that directions have been issued under Section 67 of the Revenue Code pertaining to gata No. 549 and there is no direction pertaining to gata No. 550. The appellate authority also has declined to interfere primarily on the aforesaid ground.

8. In view of said factors, it being evident that petitioner himself has refused the aspect of encroachment over gata No. 549 and in fact states that he has raised construction over gata No. 550 and there being no direction in the proceedings regarding dispossession of petitioner from gata No.550, this court does not find any occasion to interfere in the order impugned.

9. With regard to judgments cited by learned counsel for petitioner, it is evident that the same are proposition with regard to procedure required to be applied in proceedings under Section 67, 67-A and 26 of U.P. Revenue Code.

10. There is no truck with the aforesaid proposition as enunciated by co-ordinate benches of this Court. However the aforesaid judgments are inapplicable in the present facts and circumstances of the case where the petitioner himself states that he has not raised any construction over gata No. 549 but on gata no. 540 but directions have been issued only pertaining to gata No. 549 and not gata No.550.

11. The petition therefore being devoid of merits is dismissed at the admission stage itself. Parties to bear their own cost.

Order Date :- 18.12.2024
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