

Court No. - 29

Case :- WRIT - C No. - 2619 of 2025

Petitioner :- Society Radha Junior High School

Respondent :- State Counsel For Educational Research And Training And 7 Others

Counsel for Petitioner :- Alok Kumar Yadav, Km Preete, Manju Yadav

Counsel for Respondent :- C.S.C.

Hon'ble Ashwani Kumar Mishra, J.

Hon'ble Donadi Ramesh, J.

Following order was passed in the matter on 27.02.2025:-

"Following prayer is made in the writ petition:-

"i. Issue a writ order or direction in the nature of mandamus commanding the respondent no. 3 to immediately provide a police force to handover the possession to the petitioner after compliance the order passed by the execution court.

ii. Issue a writ order or direction in the nature of mandamus commanding the responding the respondent no. 3 to decide the application dated 10.12.2024 (Annexure No. 7 to this writ petition).

iii. Issue any other suitable writ, order, or direction which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

iv. Award the cost of the writ petition to the petitioner."

State Council for Educational Research And Training UP Lucknow as well as Principal State Council for Educational Research And Training, Badh, District Mathura (Respondent No. 1 and Respondent No. 2, respectively, in the writ petition) filed suit for permanent injunction against the petitioner society. In the said suit a counter claim was filed by the petitioner claiming ownership of the property as also possession of such property. The suit was dismissed by the trial court and counter claim was allowed. First Appeal arising out of such judgment was dismissed. Respondent No. 1 & 2, thereafter filed Second Appeal No. 646 of 2024, which also got dismissed. It is thereafter that Execution Case No. 23 of 2024 has been pressed by the petitioner, in which orders were passed for providing police force to execute the decree of the trial court which has attained finality.

Grievance of the petitioner is that though adjudication in favour of the petitioner has already attained finality with dismissal of Second Appeal No. 646 of 2024, filed by the State Council for Educational Research And

Training UP Lucknow, yet, only because police force is not being made available, the execution is not proceeding. Attention of the Court has been invited to orders passed by the Civil Court in this regard. Taking cognizance of such grievance, this Court passed following orders on 5.2.2025:-

"Grievance is that despite repeated orders passed by the Executing Court police force is not being made available as a result of which the decree is not being implemented.

In the facts of the case, we permit the learned Standing Counsel to obtain instructions from the respondent no. 3, as to what action has been taken pursuant to the orders passed by the competent court in Execution Case No. 23 of 2024. It shall also be disclosed as to why personal responsibility of the officer be not fixed for not taking appropriate action in the matter.

Post as fresh, once again, on 19.2.2025."

When the matter is taken up today, instructions are furnished by the Senior Superintendent of Police, Mathura, according to which, the order has not been complied with due to various exigencies and now because of an order passed by the Sub Divisional Magistrate directing maintenance of status quo in the matter. Copy of such order passed on 14th February, 2025, has been produced.

We are somewhat surprised at the manner in which a suit is filed by respondents under Section 145 of the Revenue Code, 2006 wherein an order of status quo is also passed after this Court invited instructions in the matter. Section 145 of the U.P. Revenue Code is reproduced:-

"145. Declaratory suit by Gram Panchayat. - Notwithstanding anything to the contrary contained in section 34 of the Specific Relief Act, 1963, the Gram Panchayat may institute a suit against any person claiming to be entitled to any right in any land for the declaration of the right of such person in such land, and the Court may, in its discretion make a declaration of the right of such person, and the Gram Panchayat need no in such suit ask for any further relief."

The aforesaid provision clearly shows that a declaratory suit can be filed by Gram Panchayat. In the present case the suit has been instituted by the respondent which is the judgement debtor, after it has lost the suit upto the High Court. Filing of declaratory suit by the judgement debtor is otherwise not countenanced in the U.P. Revenue Code, 2006.

We are at a loss to understand as to how such a suit could be filed before the Revenue Court, once the concerned department has already lost a civil litigation right upto the High Court with dismissal of the second appeal. In the event authorities of State are allowed to thwart binding adjudication by passing such orders, the sanctity of judicial proceeding would be in serious threat. Petitioner's argument that proceedings have been instituted to procure orders only to overreach the orders of competent court prima facie appears to have substance and requires consideration.

In the facts of the case, since we find that State Authorities have acted in

apparent disregard of the orders passed by the Civil Court, as also the orders passed by this Court in second appeal, we direct the Senior Superintendent of Police, Mathura, to remain present before this Court and explain as to how the orders passed by the competent Civil Court can be set at nought in the manner as is done herein. The Sub Divisional Magistrate will also remain present before this Court.

The manner in which the SDM has proceeded to pass an order apparently in excess of jurisdiction, on 14.2.2025, directing maintenance of status quo, in apparent disregard and derogation of the orders passed by Civil Court and upheld by this Court, the authorities shall also file their personal affidavit explaining as to why their responsibility be not fixed.

List as fresh, once again, on 11.3.2025."

On the the last occasion, the Court was informed that the respondents have already approached the Supreme Court in the matter. Today, when the matter is taken up, the learned counsel for the petitioner has placed copy of the order passed by the Supreme Court on 01.04.2025, whereby status quo has been directed to be maintained by the parties for a period of three months from the date of the order. Further, direction has been issued by the Supreme Court to decide the pending revision on its own merits, as expeditiously as possible, preferably within a period of three months.

In view of the orders passed by the Supreme Court, we are of the view that the authorities would have to abide by the orders passed by the Supreme Court in the matter. No useful purpose would be served in keeping this petition pending, at this stage.

Leaving it open for the parties to litigate the matter in the pending petition which has already been directed to be expedited under the orders of the Supreme Court, this petition is consigned to records.

Order Date :- 8.4.2025

A Gautam