

Court No. - 2

Case :- WRIT - C No. - 6060 of 2025

Petitioner :- Murari Lal

Respondent :- Distt. Magistrate Sitapur And Another

Counsel for Petitioner :- Lalji Prasad Shukla

Counsel for Respondent :- C.S.C.

Hon'ble Alok Mathur,J.

Hon'ble Arun Kumar Singh Deshwal,J.

1. Heard Sri Lalji Prasad Shukla, learned counsel for the petitioner as well as learned Standing counsel on behalf of the respondents.

2. By means of the present writ petition the petitioner has prayed for a writ of mandamus commanding the opposite parties not to demolish the house of the petitioner. The aforesaid prayer has been made with regard to the premises of House No. 576 situated at Mohalla Alamnagar, P.S. Kotwali, District Sitapur where it is alleged that the petitioner and his family are dwelling.

3. It has been submitted that it is undisputed that the said property was constructed nearly 150 years back and considering the nature of the construction proceedings under Section 133 (1) (d) of Cr.P.C. were initiated after finding that continued dwelling at the said premises may cause injury to the persons living therein and that it is likely to fall and collapse thereby cause injury to persons living or carrying on business in the neighbourhood or passing by.

4. At the first instance notice under Section 133 was given on 21.6.2008. The petitioner had responded to the said notice and the proceedings were concluded by means of order dated 22.10.2009 rejecting the objections taken by the petitioner and a finding was returned that the said premises was unsafe and is likely to fall and cause injury and death to the persons living therein and accordingly the petitioner was directed to vacate the said premises forthwith so that the same can be demolished.

5. The petitioner being aggrieved by the order passed under Section 133 Cr.P.C. filed revision before Additional Sessions Judge, Court No.6, Sitapur who allowed the said revision by means of order dated 25.9.2010 and remanded the matter back to the competent authority for passing a fresh order. In the first remand proceedings the competent authority again maintained his previous order and by means of order dated 26.2.2013

directed the petitioner to vacate the said premises in public interest in as much as the said premises were in dilapidated condition and likely to fall at any time. The first remand order dated 26.2.2013 was assailed by the petitioner again in revision before Additional District and Sessions Judge, Sitapur. The said revision was allowed by means of order dated 25.5.2015 and the matter was again remanded back to the competent authority and the competent authority in that remand proceedings again the previous order was maintained and by means of order dated 5.8.2019 order for eviction of the petitioner was passed. It is in the revisional proceedings on the third occasion that the order of competent authority was upheld and the revision was dismissed by means of order dated 4.3.2021 passed by Additional Sessions Judge, Court No.1, Sitapur. Aggrieved by the order dated 4.3.2021 the petitioner filed a revision before this Court bearing writ petition No.7545 (M/S) of 2021 (Crl.) which is pending consideration before this Court.

6. There is no dispute that no interim protection was given to the petitioner in the said writ petition. It is in aforesaid circumstances that the respondents have demolished a part of the disputed structure and in the present writ petition the only prayer has been made for a direction to the opposite parties not to demolish the house of the petitioner.

7. It has been submitted that in the petition preferred by the petitioner against the revisional order dated 4.3.2021 is pending consideration before this Court and during pendency of the said writ petition rights of the petitioner deserves to be protected.

8. The petition has been vehemently opposed by learned counsel for the respondents. It has been submitted that under Section 133 (1) (d) of Cr.P.C. it is duty of the competent authority to see that people do not reside in unsafe dwellings which are likely to fall thereby injuring the residents therein and it is only after giving opportunity of hearing that the orders of demolition was passed. It was stated that after following due procedure and after inviting objections by the persons living therein decision has been taken by the competent authority to demolish the structure in question. It has also been submitted that it is only after the revision preferred by the petitioner having been dismissed on 4.3.2021 and the order of the competent authority under Section 133 Cr.P.C. having been upheld that action for demolition has been taken by the respondents. It was further submitted that undoubtedly the writ petition is pending before this Court but there is no interim protection restraining the respondents from demolishing the said building and the structure and accordingly there is no illegality in the action taken by the respondents demolishing the

said building.

9. Considering the rival contentions, this Court is of the considered view that there is no illegality in the demolition proceedings undertaken by the respondents. We have also duly considered the fact that full opportunity was given to the petitioner and on two occasions he had succeeded in the revisional proceedings and the matter was remanded back to the competent authority where he has maintained his initial order pertaining to the fact that the premises in which the petitioner is residing is unsafe and required to be demolished. Accordingly, we find that full opportunity was given to the petitioner and there is no infirmity in the procedure undertaken by the respondents prior to taking the action for demolition. We find that the petition was filed in 2021 and even after lapse of nearly four years no interim protection has been granted to the petitioner and in absence of any interim protection or any restraining order the respondents were at liberty to proceed in accordance with law and also find that the orders for demolition which has been upheld by the revisional court are on record and there is no interim order adverse to the authorities by which they could have been restrained from taking any action against the petitioner.

10. In the aforesaid circumstances, this Court is of the considered opinion that the respondents have acted in accordance with law and hence no interference is required by this Court. We further find that the writ petition of the petitioner is pending consideration before this Court which may be decided in accordance with law. In view of the above, no ground for interference is made out. The petition is accordingly **dismissed**.

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

Order Date :- 24.6.2025
RKM.