

In Residence

Case :- WRIT - C No. - 3881 of 2022

Petitioner :- Rakesh Gupta And 2 Others

Respondent :- State Of U.P. Through Secretary , Ministry Of Urban Planning And Development And 3 Others

Counsel for Petitioner :- Saurabh Basu

Counsel for Respondent :- Daya Shankar Singh, Pawan Kumar Singh, Vineet Pandey

Hon'ble Pritinker Diwaker, J.

Hon'ble Ashutosh Srivastava, J.

Sri Saurabh Basu, learned counsel for the petitioners, Sri J. N. Maurya, learned Standing Counsel assisted by Sri Santosh Kumar Verma, learned Standing Counsel, for the State, Sri A.P. Paul, learned counsel assisted by Sri Shailja Kant Tripathi, for the Prayagraj Development Authority, Sri Satyavrat Sahai, learned counsel for the Nagar Nigam, Prayagraj and Sri Anurag Khann, learned Senior Counsel assisted by Sri Ramesh Chandra Tiwari, for the Intervener.

The writ petition has been filed seeking a writ of mandamus commanding the Prayagraj Development Authority, Prayagraj, not to interfere in the possession of the petitioners and not to undertake the demolition work in respect of property bearing No.414/415/1 Sulem Sarai Awas Yojana and Sulem Sarai, Allahabad.

The contention of the petitioners are that they are in possession over the plot and structure thereon in the shape of Homoeopathy Clinic and Eatery for the last more than 100 years and the said property is allotted a house number and is also assessed for the taxes. It is contended that the demolition is being undertaken pursuant to the orders passed in PIL No.1289 of 2019 for removing all the bottlenecks leading to various colonies on Kanpur Road and construction of dedicated corridor for the Prayagraj Airport. Further contention is that the survey report of the Prayagraj Development Authority has reported encroachments between pillar Nos.6/27 to 6/28, which encroachments have already been demolished. A compliance report in respect thereof has already been submitted. The property of the petitioners is situated between pillar Nos.6/29 to 6/30 and in no way encroaching the road. It is also contended that this Court vide order dated 11.01.2022 in PIL No.564 of 2020 has passed general orders putting in abeyance till 28.02.2022 all the orders of eviction, dispossession or

demolition already passed by the High Court, District Court or Civil Court, if not executed till the date of passing of the order.

The respondents in teeth of the aforesaid order have published a news report dated 19.02.2022 in the daily newspaper "Dainik Jagran" Allahabad edition for taking up the demolition activity. It is also contended that the petitioners had preferred a representation dated 27.12.2021, which has been rejected vide order dated 07.01.2022, which order according to the petitioners was never communicated to them.

Sri Anurag Khanna, learned Senior Counsel assisted by Sri Ramesh Chandra Tiwari, has appeared in opposition to the writ petition through video conferencing and submits that he represents the Intervener in the PIL No.574 of 2020 and has pointed out about the bottlenecks, which has been created on the road, which leads to various colonies on the Kanpur Road and it was at the instance of the Intervenor, directions in the PIL were issued for removing the bottlenecks leading to various colonies on Kanpur Road. The demolition drive is being affected pursuant to the aforesaid directions. He also submits that the petitioners have not impleaded the Intervener as party-respondent in the writ petition and that the petitioners have not challenged the order dated 07.01.2022 rejecting their representation dated 27.12.2021 which has been decided after giving them due opportunity of hearing. The petitioners have an alternative remedy to assail the rejection order in Appeal and the writ petition may not be entertained by this Court.

Sri A.P. Paul, learned counsel for the Prayagraj Development Authority as also Sri J. N. Maurya, learned Chief Standing Counsel, for the State have also opposed the writ petition on similar grounds as raised by Sri Anurag Khanna.

We have heard learned counsel for the petitioners as well as the learned counsels representing the respondents and have perused the record.

We find that pursuant to the order dated 16.11.2021 passed in Contempt Application No.4016 of 2021 inspection was carried out by a team comprising officials of all concerned departments, representatives of the petitioners, locals and the amicus Curiae on 20.11.2021 and joint meeting were conducted on 25.11.2021 and 01.12.2021 identifying the encroachments. The Authorities found various encroachments which were required to be demolished. However, the petitioners contend that encroachments identified were removed by the Respondent Authorities.

Be that as it may, the matter requires hearing. Since the writ petition is being taken up on a non-working day on urgency basis, let this writ petition be put up **as a fresh case on 24.02.2022** on which date the respondents may also indicate in what manner the encroachment has been made by the petitioners which requires demolition.

Till the next date of listing, parties are directed to maintain status-quo.

Order Date :- 20.2.2022

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