

**Court No. - 29**

**Case :-** WRIT - C No. - 28553 of 2024

**Petitioner :-** Arun Prakash Shukla

**Respondent :-** State Of Up And 4 Others

**Counsel for Petitioner :-** Saumitra Anand, Shashwat Anand

**Counsel for Respondent :-** C.S.C., Dinesh Mishra

**Hon'ble Ashwani Kumar Mishra, J.**

**Hon'ble Arun Kumar Singh Deshwal, J.**

1. Heard Sri Devansh Mishra, learned counsel for the petitioner, Sri Prabhakar Awasthi, along with Sri Dinesh Mishra, learned counsel for respondent no.5 and Sri A.S. Rajput, learned Additional Chief Standing Counsel for the State.

2. This petition has been filed with the prayer to direct respondent nos.2 to 4 not to interfere in the peaceful possession of the petitioner over his property comprised in Khata No.185 (now 284 after consolidation) being Gata Nos.287, 329, 719 and Khata No.167 (Now 334 after consolidation) being Gata no.33 situate at Mauja Katra Dayaram, Pargana and Tehsil Soraon, District-Prayagraj.

3. At the outset, when the matter was taken up, we showed our reluctance to interfere in the writ petition, as in the Court's opinion, a writ would ordinarily not be issued for the protection of possession of the petitioner over his immovable property. We were inclined to dismiss the petition with the liberty to the petitioner to approach the Civil Court, but for certain acts of the District Administration, which persuades us to take a different view.

4. Briefly stated, the facts of the case are that certain land

was originally owned by one Ram Naresh Mishra. He executed a sale deed in respect of the disputed land in favour of the present petitioner to the extent of the land in question, which is 1/2 share in Khata No.284 and 1/4th share in Khata no.334 of the recorded tenure holder. A suit for cancellation of such a sale deed was filed by the wife of the recorded tenure holder, Ram Naresh Mishra, on the ground that the vendor was not in his senses when he executed the sale deed. This suit was dismissed by the trial court on 13.02.2013 with findings returned in favour of the petitioner that pursuant to the sale deed, they have been put in possession. Prayer for an injunction made in the suit by the wife of the recorded tenure holder was also rejected. It is worth noticing that the private respondent-Rama Kant was substituted in the original suit after the wife of the recorded tenure holder died. At the time of contest and adjudication of the suit, the private respondent was the plaintiff. It is, therefore, apparent that the plaintiff-respondent no.5 has been non-suited by the trial court and an appeal arising out of such adjudication is pending. We are informed that the appeal is admitted but it is equally undisputed that there is no injunction granted in the appeal.

5. The petitioner asserts that they were put in possession over the property purchased by them for valuable consideration and that applications were moved by respondent no.5 before the District Administration for putting him back in possession. Our attention has been invited to various applications moved in that regard before the District Administration. A supplementary affidavit has been filed in which the petitioner has annexed an application of the

respondent in the pending Civil Appeal No.137 of 2013 in which respondent no.5 has asserted before the appellate court that the petitioner has forcibly entered into possession of the suit property on 07.07.2024 and that an FIR has also been lodged in that regard. Prayer has been made by respondent no.5 in his pending appeal for issuing a direction to maintain *the status quo* on the spot. While the matter before the appellate court is kept pending, respondent no.5 simultaneously approached the District Administration, and from the records annexed on page no.15 of the supplementary affidavit, it transpires that the District Administration has intervened and the possession of respondent no.5 has been restored. The proceedings undertaken by the District Administration, which is signed by the Lekhpal under some orders of the Sub-Divisional Magistrate is placed on record by the petitioner to content that the action of the District Administration in interfering with the private rights of the parties is wholly unauthorized, particularly, when no relief has been granted by the competent court. Further proceedings of 10.08.2024 have also been placed on record which mentions that a revenue team along with the police force was sent to conduct an inquiry as to who was in possession and since it was found that the petitioners were interfering in the possession, as such, the respondent no.5 who is still recorded in the revenue records has been acknowledged as being in possession and the petitioners have been advised to obtain appropriate relief from the competent court.

6. Learned counsel for the petitioner submits that for any dispute relating to the possession, respondent no.5 had

already approached the competent civil court by moving an application in Civil Appeal No.137 of 2013 and therefore, the adjudication in respect of the rival claim of parties regarding possession ought to have been left to be adjudicated by the competent civil court and that the District Administration had no right to conduct any inquiry into issues of possession and restored the possession of the respondent no.5.

7. On the other hand, Sri Prabhakar Awasthi, learned counsel for respondent no.5 submits that respondent no.5 was continuously in possession and that the petitioner on 07.07.2024 had forcibly evicted respondent no.5, who stood dispossessed and had destroyed the crops and the District Administration had only acted for restoring peace on the spot.

8. So far as the role assigned to the District Administration in such disputed claims is concerned, the law is clear, if there is a breach of peace on the spot, Section 164 of BNSS (erstwhile Section 145 Cr.P.C.) regulates such disputed claim wherein the Magistrate has the power to intervene and pass appropriate orders. The BNSS otherwise confers power upon the District Administration to deal with such issues under Sections 107 and 116 of BNSS (erstwhile 105D Cr.P.C.). It is to the above-limited extent alone that the administrative authorities will have jurisdiction to intervene to ensure that the peace and tranquility on the spot is maintained. Otherwise in seriously disputed cases of entitlement over the immovable property, the District Administration is not supposed to assume the role of adjudicator and determine as to who is in possession or who ought to be in possession. This is particularly so as the civil

court has already non-suited respondent no.5 and the appeal arising out of such adjudication is yet to be determined. In such circumstances, we cannot approve of the action of the District Administration in removing the petitioner from the possession of the land by assuming the role of adjudicator which does not vest in the State authorities.

9. In that view of the matter, we direct the District Magistrate, Prayagraj, to ensure that the unauthorized interference made by the district officials is withdrawn over the land in question and that possession as it stood prior to intervention by the District Administration on 22.07.2024 is restored on the spot. This exercise would be undertaken within a period of four weeks from today. The District Administration will ensure that adequate police protection is provided for such purposes on the spot.

10. Since, we have intervened in the matter only to check the unauthorized assumption of power by the District Administration to adjudicate in respect of the civil dispute and have directed the *status* on the spot to be restored by nullifying the unauthorised interference made by the District Administration, we conclude the proceedings of the writ, at this juncture. However, we make it clear that all issues in respect of right, title and possession of the parties over the land in issue, would be open for examination in the pending appeal and it would be open for respondent no.5 to press his injunction application in the pending appeal. The appellate court shall accord consideration to the respective claim of parties, strictly on merits, without being influenced by the intervention made by this court which is limited to the extent

of unauthorized assertion of power by the District Administration in dealing with the private rights of the parties.

11. Accordingly, the writ petition is **disposed of**.

**Order Date :-** 11.2.2025

S.Chaurasia