

(2011) 06 AHC CK 0182
In the Allahabad High Court
Case No : C.M.W.P. No. 35234 of 2011

Raj Bahadur and others

APPELLANT

Vs

State of U. P. and others

RESPONDENT

Date of Decision : 30-06-2011

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2011) 5 AWC 4734(1) : (2011) 8 RCR(Civil) 554

Hon'ble Judges : Satya Poot Mehrotra, J; Pankaj Mithal, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Satya Poot Mehrotra and Pankaj Mithal, JJ.—The present writ petition has been filed making the following prayers:

(a) Issue a writ, order or direction in the nature of mandamus commanding the respondents particularly respondent Nos. 4 to 8 not to make any nali (drain) on the Khadanja (Rasta) and release the wastage water on the ancestral Sahan of the petitioners situated in village Bhawali, Mazra-Missee. Pargana Tappajar, Tehsil Bindki, District Fatehpur.

(b) Issue a writ, order or direction in the nature of mandamus restraining the respondent Nos. 4 to 8 not to release any wastage water on the ancestral Sahan of the petitioners.

(c) Issue any suitable writ, order or direction which this Hon'ble Court may deem fit and proper in the fact and circumstances of the instant case.

(d) Award cost of the writ petition in favour of the petitioner.

2. From a perusal of the averments made in the writ petition it transpires that the petitioners have already filed a suit being Suit No. 195 of 2011 against the respondent Nos. 4 to 9 praying for grant of decree of permanent injunction against the said respondents making identical restraint order as prayed for in the

present writ petition. The said suit is pending in the court of Civil Judge (Junior Division), Fatehpur.

3. In view of the fact that the petitioners have already availed of alternative remedy available to them, we are not inclined to exercise our writ Jurisdiction under Article 226 of the Constitution of India in the present case.

4. The writ petition is liable to be dismissed on the aforesaid ground, and the same is accordingly dismissed on the said ground.