
(2003) 04 AHC CK 0170

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 16503 of 2001

Shivala Footpath Sangathan Sansthan and Ors.

APPELLANT

Vs

District Magistrate Kanpur Nagar & Ors.

RESPONDENT

Date of Decision : 06-04-2003

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2003) 04 AHC CK 0170

Hon'ble Judges : M.Katju, J and R.S.Tripathi, J

Final Decision : Dismissed

Judgement

1. Heard learned Counsel for the petitioner and Sri M.M.D. Agrawal, Sri R.V. Singh and S.K. Om for the respondents.
2. The petitioners set up shops on the public pattri (footpath). They have alleged that allotments were made in their favour for use of the footpath by the Nagar Nigam, Kanpur and they are paying tehbazari.
3. In our opinion, the Nagar Nigam has no right to allot the footpath, and petitioners have no right to occupy the same. The footpath is for public use by pedestrians and others. In fact the petitioners own case, Shivala Footpath Sangathan Sansthan v. Kanpur Mahapalika, 1987 UPLBEC 413, which is an identical case, was dismissed by a Division Bench of this Court. The Supreme Court, in State of U.P. v. Ata Mohd., AIR 1980 SC 1785, has also taken the same view.
4. In our opinion, footpath and public pattri cannot be given by the Nagar Nigam, to anyone to set up shops or for private business. The freeflow of the traffic will be obstructed and hampered thereby, which cannot be permitted.
5. The writ petition is dismissed accordingly.