
(2003) 09 AHC CK 0187

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 10748 of 1983

State of U.P.through Collector,Rampur and Anr.

APPELLANT

Vs

Additional District Judge,Rampur & Anr.

RESPONDENT

Date of Decision : 23-09-2003

Acts Referred:

Citation : (2003) 09 AHC CK 0187

Hon'ble Judges : Anjani Kumar, J

Final Decision : Dismissed

Judgement

Anjani Kumar, J.—Heard learned Counsel for the parties.

2. The State has filed this Writ Petition under the provisions of the Public Premises (Eviction of Unauthorised Occupants) Act, 1972 against the judgment and order dated 2221983 passed by Appellate Court, whereby the appellate authority has allowed the appeal and has set aside the order. The appellate authority has arrived at the findings that the prescribed authority has committed or mistake in arriving at the conclusion that the land in dispute is part of Plot No. 420 of Village Milak, and that the contesting respondents is in unauthorised occupation of the same. Particularly, when the contesting respondents has denied the contents of the notice served upon him that he has occupied any land belonging to the petitionerState, the burden clearly lay on the petitionerState to demonstrate that the contesting respondents is, in fact, occupying the land which is public premises that he is unauthorisedly occupying it. The petitionerState has miserably failed to discharge the aforesaid burden. The land was never measured on the spot and the petitionerState has miserably failed to show that the contesting respondents is, in fact, occupying any land which is public premises and that too, unauthorisedly.

3. With the aforesaid observation, the appellate authority has allowed the appeal filed by the contesting respondents, aggrieved thereby, this petition is stayed upon. Learned Counsel for the petitionerState has failed to demonstrate that the findings arrived at by the appellate authority with regard to the unauthorised

occupation of the contesting respondents of any public premises including the land in dispute has been proved by evidence on record and this finding of fact and the learned Counsel for the petitionerState, having failed to demonstrate that the same suffers from any error of law, no ground for interference in the order passed by an appellate authority is made out. Thus, the petition deserves to be dismissed. However, it will be open to the petitionerState to serve a fresh notice, in case, the petitionerState can show that the contesting respondents is actually occupying any public premises unauthorisedly and this decision will not be a bar for adjudication pursuance to any other notice.

4. In view of what has been stated above, this petition has no force and is, accordingly, dismissed.