

Court No. - 39

Case :- WRIT - C No. - 15737 of 2022

Petitioner :- Intezamia Committee Shahi Masjid

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Omar Zamin

Counsel for Respondent :- C.S.C.

Hon'ble Mrs. Sunita Agarwal,J.

Hon'ble Om Prakash Shukla,J.

A copy of the written instruction be provided to the learned counsel for the petitioner.

In the written instruction supplied by the learned Standing Counsel received from the office of the Executive Engineer Construction Division-3, Public Works Department, Prayagraj, it is categorically stated that Shahi Masjid situated on Prayagraj to Handia stretch of State Highway 106 is constructed on the Government land Gata No.402. As per the report submitted by the Sub Divisional Officer Handia, Prayagraj complete with performa 41/45, site plan and other revenue records which have been submitted alongwith the written instruction supplied today. It is then stated that Shahi Masjid is situated over the left side of painted road but inside permanent land boundary of PWD State Highway No.106 and a widening of painted road upto four lane project of State Highway has been sanctioned vide Government Order dated 05.08.2021 from Prayagaj to Handia.

It is then stated that the above widening of road has become unavoidable in national interest due to increasing traffic and accordingly, all the structures whether new or old lying within State land boundary removal of which, for the widening of the road is unavoidable and those are an encroachment on the government land, accordingly has to be removed for the government project of road widening.

To add to this categorical statement that the aforesaid Shahi Masjid is also an encroachment upon the state land and has to be removed for widening of the road. Process of marking of all encroachment and public announcement for that purpose has been carried out, it is further stated that the widening of road has to be carried out within the limits of the state land and all encroachment has to be removed without any acquisition or compensation process for a larger national purpose.

Looking to the stand taken by the authorities in the written instruction supplied today and the enclosure appended therein and in view of the categorical stand of the respondents that the

existing construction of Shahi Masjid situated on Prayagraj to Handia stretch of State Highway 106 is an encroachment on the government land namely Gata no.402 as per the report of the Sub Divisional Officer, Handia, Prayagraj, we are not in a position to issue mandamus as claimed by the petitioner herein.

Learned counsel for the petitioner has invited our attention to the report submitted by the revenue department stating therein that the construction namely Shahi Masjid is existing for a long time i.e. since before the independence. A perusal of the said report indicates that the report is based on the statement made by the people of the locality and there is no data or material which was looked into by the reporting officer before making the above statement with regard to the existence of Shahi Masjid.

Be that as it may, from the averments made in the writ petition and that of the written instruction supplied today, it seems that the dispute is about the title to the property over which the construction exists. For any claim of the petitioner with regard to the land over which Shahi Masjid exists, it is open for it to approach the civil court by filing the civil suit seeking declaration or necessary relief in the same.

In any case, in view of the categorical stand of the respondent, the issue raised herein cannot be entertained within the scope of the writ petition.

The writ petition is, accordingly, **dismissed**.

In case, the petitioner approaches the civil court, it would be under obligation to decide the matter independently without being influenced by any of the observations made herein above.

Order Date :- 16.8.2022

Himanshu