

## **Rohitash vs State Of U.P. And 3 Others on 28 March, 2025**

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:44156

Court No. - 35

Case :- WRIT - C No. - 41337 of 2024

Petitioner :- Rohitash

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Abrar Ahmad Siddiqui, Shashi Chood Pandey

Counsel for Respondent :- C.S.C., Sher Bahadur Singh

Hon'ble Manish Kumar Nigam, J.

1. Heard learned Standing Counsel for the State-respondents and perused the record.

2. This writ petition has been filed for following relief:-

"I. Issue a writ order or direction in the nature of mandamus directs the respondents to implement the order dated 23.11.2013 on the spot as per the corrected map dated 6.6.2013 passed by Upper Zila Collector (Administration), Badaun in case no. 9/2012-2013, Under 28 L. R. Act, Gram Banaei, Pargana-Badaun, District-Badaun, Narayani Kunwar Vs. Gram Panchyat and others; else the petitioner shall suffer irreparable loss and injury."

3. From perusal of writ petition and the annexures annexed thereto, it is apparent that an order dated 23.11.2013 has been passed under Section 28 of the U.P. Land Revenue Act, 1901, but the same has not been given effect to.

4. Learned Standing Counsel has raised a preliminary objection that view of the judgment of Division Bench of this Court in case of Manbhavati Vs. State of U.P. and others reported in 2020 1 AWC 789A and Writ C No. 7863 of 2018 (Brij Bhushan Rai v. State of U.P. and 6 others) the writ petition is not maintainable for execution of orders passed by the Revenue Court. It has been further contended by learned Standing Counsel that in view of provisions of paragraph No. 460 of the U.P. Revenue Court Manual, the petitioner has remedy for getting the order implemented. For ready reference, paragraph No. 460 of the U.P. Revenue Court Manual is quoted as under:-

"460. Execution of decree and order- (1)The decree or order passed under the Code or the Rules framed under the Code shall, mutatis mutandis, be executed in accordance with the provisions of Chapter V. (2) The Assistant Collector/Tahsildar passing the order for eviction or recovery of any amount of damages or compensation under the provisions of Section 67 of the Code shall get the order executed and in execution of the order he shall, mutatis mutandis, follow the procedure laid down in paragraphs 137 and 138."

5. In view of the same, I am not inclined to interfere in the matter.

6. Accordingly, the petition is disposed of with liberty to the petitioner to pursue the remedy as available to her under the U.P. Revenue Court Manual.

Order Date :- 28.3.2025 Nitika Sri. (Manish Kumar Nigam,J.)