

## VERDICTUM.IN

**Court No. - 2**

**Case :-** PUBLIC INTEREST LITIGATION (PIL) No. - 828 of 2022

**Petitioner :-** Dist. Bar Association Amethi, Thru. Its General Secretary

**Respondent :-** State Of U.P. Thru. Addl. Chief Secy. Deptt. Of Revenue Lko. And 6 Others

**Counsel for Petitioner :-** Amrendra Nath Tripathi

**Counsel for Respondent :-** C.S.C.

**Hon'ble Devendra Kumar Upadhyaya,J.**

**Hon'ble Saurabh Srivastava,J.**

On an oral prayer made by the learned counsel for the petitioner, let Nagar Palika Parishad, Gauriganj, District-Amethi through its Executive Officer be impleaded as respondent no.8.

Learned counsel for the petitioner is permitted to incorporate the necessary amendments during course of the day.

Notice of this petition shall be served upon the learned Standing Counsel representing the Nagar Palika Parishad, Gauriganj, Amethi by the learned counsel for the petitioner today itself.

This Public Interest Litigation petition has been filed by the District Bar Association, Amethi through its General Secretary wherein various allegations of accesses against the members of the Bar Association, allegedly committed by the District Administration, Administration of the Nagar Palika Parishad and Police Administration, Gauriganj, Amethi, have been mentioned. One incident on which emphasis has been laid by the learned counsel for the petitioner relates to a land which by means of an order dated 16.05.2015 passed by the Sub Divisional Officer concerned was given in exchange to one Shri Uma Shankar Mishra who is said to be the General Secretary of District Bar Association, Amethi. The order dated 16.05.2015 is on record whereby certain land belonging to the Land Management Committee was given to Shri Uma Shankar Mishra in exchange of his land. It has been stated that once exchange took place statutorily under section 161 of U.P.Z.A & L.R. Act, that too, under the order passed by the court concerned, the said Uma Shankar Mishra came in possession over the said land and constructed a house and its boundaries. Our attention has been drawn to an undated letter which has been annexed as annexure-9 to the writ petition which is said to have been written by one Shri Umesh Pratap Singh to the Sub

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Divisional Officer, Gauriganj wherein it has been stated that exchange of land by means of the order dated 16.05.2015 was wrongly made. On the said letter the Sub Divisional Officer concerned had required the Tehsildar, Gauriganj to examine and submit his report and thereafter by means of the order dated 16.11.2022 passed by the Sub Divisional Officer the order dated 16.05.2015 has been cancelled. It is the assertion of the learned counsel for the petitioner that after cancelling the said order dated 16.05.2015, on 16.11.2022 immediately the entry in the khatauni was made and thereafter the house, built by Shri Uma Shankar Mishra, has been demolished using heavy machinery which is apparent from a perusal of the photographs annexed with the writ petition. It has also been stated by the learned counsel for the petitioner that Members of the Bar specially the office bearers are being unnecessarily harassed by the District Administration and without there being any substance, First Information Reports are being lodged against them. Various other like instances have been mentioned in the Writ Petition.

What *prima facie* is noticeable is that Shri Uma Shankar Mishra, the General Secretary of the Bar Association was given some land in exchange by means of an order dated 16.05.2015 passed under section 161 of U.P. Z.A. & L. R. Act. In case any irregularity or illegality was noticed by the Sub Divisional Officer, he ought to have been put to notice and any order could have been passed only after providing him opportunity of hearing. From a perusal of the order dated 16.11.2022 it does not follow that Shri Uma Shankar Mishra was given any opportunity of hearing or was issued any notice prior to passing of the said order dated 16.11.2022. *Prima facie*, it appears that such a course adopted by the Sub Divisional Officer is alien to law as also alien to the provisions contained either in U.P.Z.A & L.R. Act. It has been stated that under the provisions of U.P.Z.A. & L.R. Act there is no provision which empowers the Sub Divisional Officer to register *suo motu* review petition in respect of a final order passed by him.

Unnecessary and undue haste in getting the order dated 16.11.2022 recorded in the revenue records and the alleged action of demolition, that is too, without notice to the house owner speak volumes about the action on the part of the Administration. In the aforesaid view of the matter, we require the learned Chief Standing Counsel to seek instructions and place all facts before the Court by tomorrow.

**List/put up this case tomorrow i.e. 23.11.2022.**

We direct that till tomorrow in respect of the land which was given in exchange, parties shall maintain status quo. We also

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expect that members of the Bar Association shall not be subjected to unnecessary harassment.

This order shall be communicated to the authorities concerned forthwith by the learned Chief Standing Counsel without waiting for its certified copy.

**Order Date :- 22.11.2022**

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