

विधान परिषद के द्वितीय सत्र, 2022 के प्रथम गुरुवार के लिए निर्धारित, श्री भीमराव अम्बेडकर मा0 सदस्य विधान परिषद द्वारा पूछे गये अतारांकित प्रश्न संख्या-25 का उत्तरालेख-

प्रश्न	उत्तर
25 (क) क्या मत्स्य मंत्री बतायेंगे कि जनपद-अमेठी की तहसील- अमेठी की ग्राम सभा-थौरा का गाटा संख्या-1745 मि0 का मत्स्य पालन हेतु वर्ष 2006 से 2016 तक 10 वर्ष के लिए पट्टा दिया गया था ?	जी हाँ।
(ख) यदि हाँ, तो उक्त तालाब के आस-पास मत्स्य पालन के दौरान बांधा बनाकर पट्टा धारक द्वारा वृक्षारोपण किया गया था ?	जी नहीं।
(ग) क्या पट्टा धारक द्वारा लगाये गये वृक्षों का नियमानुसार वृक्ष का स्वामित्व उसका, जो उसे लगाये के आधार पर वृक्षों का स्वामित्व पट्टा धारक को देंगे?	जी नहीं। मा० उच्च न्यायालय, इलाहाबाद लखनऊ खण्डपीठ में योजित रिट याचिका (सी) सं०-5059/2022 काली शंकर बनाम उ०प्र० राज्य व अन्य में पारित आदेश दिनांक 06.08.2022 द्वारा पट्टा धारक को पट्टा दिये जाने की शर्तों/प्रतिबन्धों के अधीन केवल मत्स्य पालन का अधिकार प्रदान किया गया है (आदेश की प्रति संलग्न)।
(घ) यदि नहीं, तो क्यों ?	प्रश्न नहीं उठता।

संलग्नक- यथोक्त।

डा० संजय कुमार निषाद
मंत्री
मत्स्य विभाग।

1983 ALL. L. J. 473, Ram Roop and 24 ors. Vs. D.D.C. and 3 ors.; Writ-B No.41383 of 2014; Chinta Ram and another Vs. State of U.P. and others; Writ-C No.28839 of 2019 and Ram Lakhani Vs. D.D.C. Sultanpur and others; Writ Petition No.1741 (Consolidation) of 1981 and has stated that though the person who plants trees on the gaon sabha land does not have any right or title in the land, however, so far as the trees planted by him are concerned, such person will have full and complete rights on the planted trees.

The aforesaid judgments cited by learned counsel for the petitioner do not come to his rescue for the reason that the petitioner has not planted trees on the gaon sabha land which was lying vacant. The petitioner, in contravention of the conditions of lease granted to him for fishing rights, had instead of fishing in the pond, planted eucalyptus trees, which in our considered opinion, not only contravenes the conditions of the lease, but has also resulted in commercial exploitation of valuable property of the gaon sabha.

Our attention has been drawn to a document annexed at Page No.42 to the writ petition which is dated 16.07.2022 and is an auction notice whereby notice has been given to the public for auctioning the trees standing in Khasra Plot No.468-Kha on 22.07.2022.

We have also been informed that Gata No.468-Kha and Gata No.1746M, over which the petitioner was granted fishing lease are adjacent to each other. The auction notice is only in respect of the trees standing on Khasra Plot No.468-Kha and not those standing on Khasra Plot No.1745M.

For the reasons aforesaid, we are not inclined to entertain this writ petition as the petitioner does not have any right in the trees said to have been planted by him for the reason that plantation of trees is in contravention of the conditions of lease which was granted to him for fishing rights.

The writ petition is thus dismissed.

It is however directed that Sub Divisional Officer concerned shall take all the 2000 eucalyptus trees said to be standing at Khasra No.1745M in his custody and as and when required, dispose them of, proceeds of which shall be deposited in the appropriate fund belonging to the Gram Panchayat concerned.

The District Magistrate, Amethi is directed to supervise personally that the trees standing on Khasra Plot No.1745M are taken in the custody of Sub Divisional Officer concerned.

Court No. - 2

Case :- WRIT - C No. - 5059 of 2022

Petitioner :- Kali Shankar

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Revenue ,
Civil Sect. U.P. Lko. And Others

Counsel for Petitioner :- Prashant Shukla, Priya Pandey

Counsel for Respondent :- C.S.C., Mohan Singh

Hon'ble Devendra Kumar Upadhyaya, J.

Hon'ble Rajnish Kumar, J.

Heard learned counsel for the petitioner, learned State Counsel and Mr. Mohan Singh, learned counsel representing Gaon Sabha/Land Management Committee concerned.

By instituting these proceedings under Article 226 of the Constitution of India a prayer has been made that a direction be issued to the Sub Divisional Officer Tehsil & District Amethi to consider and allow/permit the petitioner to cut 2000 eucalyptus trees planted and nourished by him over the land bearing Gata No.1745M, situate at Village Thaura, Post Pindauria, Tehsil & District Amethi.

It has been stated by learned counsel for the petitioner Khasra Plot No.1745M is recorded in the revenue record as talab in respect of which the petitioner was granted ten years fishing lease with effect from 1.12.2006 till 30.11.2016. It has further been argued that on the spot though earlier there was some pond, however, subsequently nature of said land changed. Learned counsel for the petitioner states that in the year 2006 itself the petitioner had planted 2000 eucalyptus trees and now he is not being allowed to cut and use the same.

The lease deed executed in favour of the petitioner is on record, according to which the petitioner was granted lease in relation to fishing rights alone with effect from 1.12.2006 till 30.11.2016. One of the conditions of lease is that lease holder will have no right to do agriculture on the land in question. As a matter of fact the only purpose for which the lease was granted to the petitioner was to permit him fishing in the pond and not for any other purpose. The Gram Sabha land granted on lease to the petitioner could not have been utilized by him for any purpose other than fishing, including plantation of any kind of trees.

Learned counsel for the petitioner, at this juncture has cited certain judgments in the cases of *Lata Singh Vs. Patiraj Singh*;

Learned Standing Counsel shall communicate this order to the District Magistrate and the Sub Divisional Officer concerned forthwith.

(Rajnish Kumar, J.) (Devendra Kumar Upadhyaya, J.)

Order Date :- 6.8.2022

Renu/-