

Court No. - 9

Case :- CRIMINAL MISC. WRIT PETITION No. - 8810 of 2023

Petitioner :- Anil Kumar Khanna

Respondent :- State Of U.P. Thru. Prin. Secy. Home Lko. And Others

Counsel for Petitioner :- Mayank Pandey

Counsel for Respondent :- G.A.,Neerav Chitravanshi,Shiv P Shukla

With

Case :- CRIMINAL MISC. WRIT PETITION No. - 5879 of 2022

Petitioner :- Dinesh Pratap Singh

Respondent :- State Of U.P. Thru. Addl. Chief Secy./Prin. Secy. Deptt. Of Home Lko. And Others

Counsel for Petitioner :- Shachindra Pratap Singh,Neeraj Kumar Rai

Counsel for Respondent :- G.A.,Aasif Razzaque Khan,Amrendra Nath Tripathi,Anuj Pandey,Krishna Mohan Srivastava

With

Case :- CRIMINAL MISC. WRIT PETITION No. - 3537 of 2023

Petitioner :- Sharda Shankar Rastogi And 2 Others

Respondent :- State Of U.P. Thru. Addl. Chief Secy./Prin. Secy. Home Civil Secrett. Lko. And 23 Others

Counsel for Petitioner :- Shachindra Pratap Singh,Namit Sharma,Neeraj Kumar Rai

Counsel for Respondent :- G.A.,Anubhav Awasthi,Manoj Kumar Mishra,R.P. Mishra,Shobhit Kant,Subhash Chandra Pandey,Utkarsh Misra

With

Case :- CRIMINAL MISC. WRIT PETITION No. - 8629 of 2023

Petitioner :- Subhansu Singh

Respondent :- State Of U.P. Thru. Prin. Secy. Home Civil Sectt. Lko. And Others

Counsel for Petitioner :- Roshan Babu Gupta

Counsel for Respondent :- G.A.,Subhash Chandra Pandey

With

Case :- WRIT - C No. - 9925 of 2010

Petitioner :- Prashant Singh Gaur

Respondent :- State of U.P. and Others

Counsel for Petitioner :- Prashant Singh Gaur,Akshaya Katiyar,Ashok Pandey,Avinash Chandra,Jogi Ram Sharma,K M Nigam,Krishna Kumar Singh,Kshemendra Shukla,Prince Lenin,R.P. Singh,Raghvendra Singh,Rajiv Kumar Bajpai,S.C.Shukla,Yogendra Singh

Counsel for Respondent :- Ashok Nigam,B.Nath,B.P. Pandey,I.B.Singh,K S Pawar,Mohd.Amir Naqui,Neerav Chitravanshi,Vivek Kumar Rai

With

Case :- CRIMINAL MISC. WRIT PETITION No. - 26045 of 2018

Petitioner :- Anil Kumar Tiwari

Respondent :- State Of U.P. Thru Secy. Home Lucknow And Ors.

Counsel for Petitioner :- Anjum Ara,Chandan Srivastava,Mohammad Irfan Siddiqui,Yogesh Somvanshi

Counsel for Respondent :- G.A.

With

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 32524 of 2018

Petitioner :- Inrepeaceful Functioning Of The Courts In Lucknow Judgeship

Respondent :- State of U.P. and Others

Counsel for Petitioner :- Suo Moto

Counsel for Respondent :- C.S.C.

With

Case :- CRIMINAL MISC. WRIT PETITION No. - 3500 of 2023

Petitioner :- Poonam Singh And 2 Others

Respondent :- State Of U.P. Thru. Prin. Secy. Deptt. Of Home And 5 Others

Counsel for Petitioner :- Ripu Daman Shahi, Jai Pratap Singh

Counsel for Respondent :- G.A., Anubhav Awasthi, Manoj Kumar Mishra, Utkarsh Misra

with

Case :- CRIMINAL MISC. WRIT PETITION No. - 8875 of 2023

Petitioner :- Sudeep Bhatt And 3 Others

Respondent :- State Of U.P. Thru. Addl. Chief Secy. U.P. Home Deptt. Lko. And 3 Others

Counsel for Petitioner :- Bhupendra Nath Tripathi

Counsel for Respondent :- G.A., Neeraj Kumar Rai

with

Case :- CRIMINAL MISC. WRIT PETITION No. - 8969 of 2023

Petitioner :- Smt. Shabnam Rawat And Another

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Home Lko. And Others

Counsel for Petitioner :- Ganesh Kumar Gupta, Neeraj Kumar Rai

Counsel for Respondent :- G.A., Subhash Chandra Pandey

with

Case :- WRIT - C No. - 25848 of 2021

Petitioner :- Piyush Shrivastava In Person And Ors.

Respondent :- State Of U.P. Thru. Prin. Secy. Home Lko. And Ors.

Counsel for Petitioner :- Piyush Shrivastava, Shailendra

Kumar Misra,Suchita Singh

Counsel for Respondent :- C.S.C.,Arvind Kumar,Subhash Chandra Pandey

with

Case :- CRIMINAL MISC. WRIT PETITION No. - 2366 of 2022

Petitioner :- Kunwar Singh Yadav

Respondent :- State Of U.P. Thru. Prin. Secy. Home Deptt. And Others

Counsel for Petitioner :- Piyush Shrivastava

Counsel for Respondent :- G.A.

with

Case :- CRIMINAL MISC. WRIT PETITION No. - 1254 of 2023

Petitioner :- Qamar Jabeen Siddiqui

Respondent :- State Of U.P. Thru. Prin. Secy. Home Deptt. Civil Sectt. Lko. And Others

Counsel for Petitioner :- Piyush Shrivastava

Counsel for Respondent :- G.A.,Prem Shanker,Santosh Kumar Shukla

Hon'ble Rajan Roy,J.

Hon'ble Narendra Kumar Johari,J.

Heard learned Counsel for the petitioners, Shri S.P. Singh along with Shri Tilhari, learned A.G.A. for the State, Shri Neerav Chitravanshi along with Shri Kushagra Dixit, learned Counsel's for the Income Tax department and Shri Subhash Chandra Pandey, learned Counsel for the Bar Council of India. Learned Counsel for the C.B.I. is not present today.

We have perused this Court's order dated 02.12.2023, which reads as under:-

"1. The Police Commissioner of Lucknow- Mr. S.B. Shiradkar is present in person in compliance of our order dated 21.11.2023. He has submitted a detailed report, running into several pages before this court, which is taken on record. He has also assured this Court that he has constituted a Special Cell under one Joint Commissioner of Police, (Law and Order), a very senior I.P.S. Officer to look into the complaints regarding alleged lawyers taking over property of common persons and to take immediate action on receiving any such complaints in the future also. He assured this Court of full co-operation of the police authorities with regard to the endeavours of this Court to uproot all unlawful elements, who are working as alleged advocates in the district of Lucknow.

2. He has prayed for some time to file his affidavit with regard to action taken in each of the matters that have been listed before this Court along with the Bunch. The Commissioner of Police shall ensure that affidavits, which are filed in all such cases be

filed by some responsible officer not below the rank of Deputy Commissioner of Police with regard to current status of the investigation/trial.

3. The affidavit that has been filed by Subhash Chandra Pandey on behalf of the Bar Council of U.P. states that in at least 29 such cases of District Lucknow action of suspension of license for various periods has been taken. In some cases the lawyers have been let off with a warning only. All such cases relate to the period of 2011-2021.

4. This action taken, however, it has been pointed out by the counsel for the Bar Council of U.P. is subject to Appeal before the Bar Council of India. Therefore, this Court feels it appropriate that Bar Council of India should also be impleaded as respondents in these writ petitions so that notice of these alleged lawyers and their unlawful activities is also taken by the Bar Council of India and suggestions be made by it accordingly as to how to curb the same.

5. District Judge has also sent a report, which is kept on record in **CRIMINAL MISC. WRIT PETITION No. - 8629 of 2023**, which we have perused where he has stated that CCTV footage of the district court campus, which was retrieved is appended to the report and directions have been issued for preserving and providing such footage in case of necessity to the persons concerned. It has also been provided to the Investigating Officer in a pen drive in case crime no. 0283 of 2023 and 0284 of 2023 lodged at Police Station-Wazirganj, District- Lucknow with regard to the incident that occurred on the of the third floor corridor and in front of Judicial Magistrates' Court No. -3 reference of which has been made in our earlier orders. **A copy of the report of the District Judge shall be provided on application filed by the Government Advocate to his office by the Registry so that action in pursuance of the same may also be taken by the police expeditiously and the case is brought to its logical conclusion.**

6. This Court has gone through the record of Writ Petition No. 9925 (MB) of 2010 and finds several reports have been submitted regarding status of the individual criminal cases that were handed over to the CBCID out of bunch of the 15 cases. There are two report also of the CBI by the concerned Senior Superintendent of Police, who is In-charge of the Special Task Force created by the court, however, the Writ Petition No. 9925 (MB) of 2010 having not been listed after 2013, monitoring of such matters has taken a back seat, which has encouraged antisocial elements posing as lawyers intimidating the common citizens.

7. This Court is, therefore, of the opinion that a fresh report be filed in Writ Petition No. 9925 (MB) of 2010 by the District Judge, DCP, CBCID and the STF, CBI with regard to action taken against such lawyers.

8. In Writ Petition No. 9925 (MB) of 2010, this Court came across 27 complaints that were filed after this Court took suo muto notice of a written complaint of a lawyer (Prashant Singh Gaur) who was prevented from filing his power in favour of the litigants and when he did file his power, he was roughed up in the court premises. All such complaints relate to alleged land grabbing and intimidation by property dealers posing as advocates. Action against such property dealers may be taken strictly by the Government.

9 . The Court in Writ Petition No. 9925 (MB) of 2010 had constituted under the Commissioner of Income Tax (TDS) Lucknow to look into tax evasion, if any, of such property dealers posing as advocates. It is expected that the Commissioner of Income Tax shall file a fresh report regarding action taken against regarding such property dealers because the root cause of such intimidation and violence being meted out to the common citizen is the greed and attraction of getting quick profits out of properties/ lands which are in dispute.

10. A number of suggestions were given in affidavit filed in Criminal Misc. Writ Petition No. 9925 (MB) of 2010 regarding making of Rules for debarring such advocates from appearance in the court concerned. However, some of these lawyers are not actually lawyers and they do not appear in Courts they merely mention their enrollment numbers and their membership of the Central Bar Association on the sign boards that they affixed by them on the disputed properties. It is the responsibility of the Bar Council of U.P. to check whether these advocates are actually advocates or not.

11. It is further expected that such authorities as have been impleaded in Writ Petition

No. 9925 (MB) of 2010 as respondents to submit their reports regarding current situation before this Court till the next date of listing.

12. List along with Criminal Misc. Writ Petition No. 25848 (MB) of 2021 (Piyush Shrivastava In Person And Ors. Vs. State of U.P. and others), Criminal Misc. Writ Petition No. 1254 of 2023 (Qamar Jabeen Siddiqui Vs. State of U.P. and others) and CRIMINAL MISC. WRIT PETITION No. - 2366 of 2022 (Kunwar Singh Yadav Vs. State of U.P. and others).

13. This Court has gone through the pleadings in Criminal Misc. Writ Petition No. 3780 of 2015 including the counter affidavit filed therein and is of the opinion that the matter is purely private dispute, which does not require any further orders from this Court. Therefore, Criminal Misc. Writ Petition No. 3780 of 2015 is de-linked.

14. List this matter on 2.1.2024 along with already connected matter and also along with above mentioned writ petitions except Criminal Misc. Writ Petition No. 3780 of 2015 which has been delinked.

15. The counsel for writ petitioners in such writ petitions which are listed before this Court today shall move appropriate applications for impleadment of necessary and proper properties within a week so that we can pin-point the role that has to be played by such authorities in curbing such unlawful activities by alleged advocates when the case is next listed.

16. The Commissioner of Police need not appear in person on the next date of listing, if he files the necessary affidavit in the meantime. However, it is expected that he may send some responsible officer of the police commissionerate to assist us in the instant matter."

In response thereof, personal affidavit has been filed by the Commissioner of Police, Lucknow, Shri S.B. Shiradkar, which is taken on record. Another counter affidavit has also been filed presumably on behalf of Deputy Commissioner of Police, Lucknow Central, Lucknow Commissionerate who in fact is not a party herein, however, learned A.G.A. says that this is a counter affidavit on behalf of opposite parties no. 3, 4 & 5. Let an affidavit to this effect be filed by the next date.

A copy of the personal affidavit of the Commissioner shall be provided to all the Counsel for the petitioners in all the connected matters so as to enable them to file their response in their petitions and assist the Court.

In pursuance of this Court's order dated 02.12.2023, Smt. Aparna Rajat Kaushik, Deputy Commissioner of Police, Lucknow (Central), Shri Rahul Raj, Deputy Commissioner of Police, Lucknow (West), Shri Kasim Abdi, Deputy Commissioner of Police, Lucknow (North) and Shri Ashish Srivastava, Deputy Commissioner of Police, Lucknow (East) have appeared in person before this Court today. The officers who are present today need not appear again unless specifically called for.

We take note of the submission of Shri Tilhari, learned A.G.A. that in compliance of the said orders, though two affidavits have been filed today, certain more affidavits are under process and he would be placing before the Court all relevant data

pertaining to such Lawyers or persons posing as Lawyers who are misusing their position to grab land or indulge in similar activity, not keeping with the vocation. Shri Tilhari also informs us that the Commissioner of Police, Lucknow has constituted a cell for dealing with FIR's / complaints / investigation against Lawyers who are indulging in land grabbing and other illegal / criminal activities. Shri Tilhari, learned A.G.A. has instructions from the Commissioner of Police, Lucknow to state that constitution of the said cell shall be publicized in newspapers and other permissible means including media so that the public comes to know about the same and such activities, as have been referred in our order dated 02.12.2023 and herein above, are curbed at the earliest which would be possible only when requisite information is received from the public in this regard.

Shri Neerav Chitravanshi along with Shri Kushagra Dixit, learned Counsel's appearing for the Income Tax Department says that he wanted to inspect the file relating to Writ C No. 9925 of 2010, as, certain reports were filed earlier but he has not been able to inspect the entire record. If any such application is filed, he shall be permitted to inspect the entire record, as per rules of the Court.

In the meantime, the earlier order dated 02.12.2023 shall be complied by the concerned unless already complied.

In C.R.L.P. No. 3537 of 2023, counter affidavit has been filed on behalf of Deputy Commissioner of Police, Lucknow (North) which is taken on record. Although, the charge sheet has been filed against the concerned opposite parties, as informed by Shri S.P. Singh, learned A.G.A. but considering the allegations in the petition, as also, other reliefs claimed herein, which are with regard to involvement of police personnel in facilitating illegal grabbing of properties, as these issues are engaging attention in all the connected matters, we will proceed with this petition also, to this extent. Let pleadings be exchanged between the parties.

In C.R.L.P. No. 5879 of 2022, counter affidavit of the State is ready but it has not been served. Let it be served and filed in the Registry.

Application for impleadment of Bar Council of India bearing No. 03 of 2023 has been filed in C.R.L.P. No. 8629 of 2023, in pursuance of our earlier order dated 02.12.2023 passed in C.R.L.P. No. 8810 of 2023 which applies in all the petitions. The said applications in the connected petitions are to come up tomorrow, however, as the case is listed today, the same have been requisitioned to this Court today itself. The applications

are **allowed**. Let Dasti notice be issued to the petitioner for service upon newly impleaded Bar Council of India and the Bar Council of India be impleaded in the array of parties during course of the day.

We have seen the office report in relation to Writ C No. 25848 of 2021, Piyush Srivastava In Person & Ors. Vs State of U.P. & Others. The said petition need not be listed with this Bunch of petitions.

This apart, we find that in all these petitions, apart from individual grievances raised herein, the common thread is with regard to certain persons posing themselves to be Lawyers or may be who are actually Lawyers, but are misusing their position to grab or attempt to grab property, as also, create hindrances in the functioning of District Court at Lucknow. One of the petition's which has been connected and listed today is a Public Interest Litigation bearing no. 32524 of 2018. There is another petition bearing Writ C No. 9925 of 2010 in which several orders were passed in the year 2010 and thereafter till 2013, which as informed by members of the Bar who are present today in Court room in large number had a salutary effect on such mischievous Lawyers and the functioning of the District Court's at Lucknow. This petition has not been listed since 2013 and it has been listed today only after the earlier order passed by us on 02.12.2023. This petition was registered in view of a letter petition sent by Shri Prashant Singh Gaud, a Lawyer practicing in the District Court. In fact, this petition is being treated as petition of a civil nature but the issue involved is similar to the other writ petitions which are listed today in this Bunch and are either of a criminal nature or in public interest.

We are therefore of the opinion that the matter needs to be placed before Hon'ble the Chief Justice for nominating a Bench for hearing all these matters regularly, considering the important issues involved and also to ensure that any question of lack of jurisdiction may not arise for the reasons already stated hereinabove, as, some of the petitions are in public interest whereas others are registered as being of a civil nature or criminal. Let the office do the needful.

The matter shall now be placed before the Bench as nominated by Hon'ble the Chief Justice at the earliest say, if possible, on **17.01.2024, amongst first five cases of the day.**

The name of Shri Shiv P. Shukla, learned Counsel for the CBI shall be printed in the cause list when the matter is listed next and he shall seek instructions as to the compliance made in

pursuance to the earlier orders passed in Writ C No. 9925 of 2010. It would be better if an affidavit is filed in this regard by the next date.

Shri Tilhari, learned A.G.A. shall communicate this order to Shri Shiv P. Shukla, learned Counsel for the CBI.

Interim order granted earlier in some of the connected petitions of this Bunch is extended till the next date of listing.

Order Date :- 2.1.2024

Lokesh Kumar

[Narendra Kumar Johari, J.] [Rajan Roy, J.]