

Court No. - 49

Case :- WRIT - C No. - 26401 of 2023

Petitioner :- Nagendra Kumar Dubey

Respondent :- State Of U.P. And 7 Others

Counsel for Petitioner :- Prem Prakash

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

Hon'ble Syed Qamar Hasan Rizvi,J.

1. Heard Sri Prem Prakash, learned counsel for the petitioner, Sri Awadhesh Kumar Patel, learned Standing Counsel representing the respondents no. 1 & 2, Sri Pradeep Singh, learned counsel for the respondent No.3-Gaon Sabha and perused the record.

2. By means of the present writ petition, the petitioner has prayed for a writ of Mandamus directing the Sub-Divisional Magistrate, Tehsil-Aurai, District Bhadohi to ensure the compliance of the order dated 05.12.2022 passed in execution Case No. 00866 of 2021 Computerized Case No. T202116670600866 (Nagendra Kumar Vs. Madhuri Devi and others).

3. This Court vide order dated 18.08.2023 granted time to learned Standing Counsel appearing for the State-respondents to seek instructions in the matter.

4. Sri Awadhesh Kumar Patel, learned Standing Counsel submits that he has received written instructions from Sub-Divisional Magistrate, Tehsil-Aurai on 02.09.2023. On the basis of the aforesaid written instructions, he submits that the restoration application has been filed by respondent no.7, namely, Sri Rakesh Kumar in the aforesaid matter and as such due to the pendency of the said restoration application the further proceedings could not take place.

5. Learned counsel for the petitioner, at this stage, submits that he confines his prayer to the extent that a writ in the nature of Mandamus be issued directing respondent no.2-Sub-Divisional Magistrate, Tehsil-Aurai, District Bhadohi to expeditiously decide the above mentioned restoration application within a stipulated time as fixed by this Court.

6. Paragraph 479 of the U.P. Revenue Court Manual provides as under:

".....Reason for delay in disposal- If the period for concluding a

proceeding has not been fixed in the Code or the Rules; the court shall endeavour to conclude the proceeding within a period of ninety days and if the proceeding is not concluded within the aforesaid period, the reason for the same shall be recorded."

7. There is a clear legislative mandate that if proceedings are not concluded within stipulated period of time as provided under the aforesaid provision, reasons for the same shall be recorded.

8. Learned Standing Counsel submits that he has no objection to the extent that a direction be issued by this Court for expeditious disposal of the aforesaid restoration proceeding within stipulated period as to be fixed by this Court.

9. In view of the nature of the order proposed to be passed, the service of notice upon the respondent nos. 4 to 8 is dispensed with.

10. Taking into consideration the facts and circumstances of the case, this Court is of the view that no useful purpose would be served in keeping this writ petition pending.

11. Accordingly, without adverting on merits of the case and with the consent of the parties, this Court deems it appropriate to finally dispose of the writ petition with a direction to the respondent No. 2, before whom the aforementioned matter is pending for disposal, to decide the restoration application registered as Case No. T202316670603871, strictly in accordance with law, by a reasoned and speaking order after affording opportunity of hearing to the parties concerned, expeditiously and preferably within a period of **three months** from the date of receipt of a certified copy of this order unless there is any legal impediment. It is further provided that no adjournments be granted to either of the parties, unless the same is unavoidable.

12. With the aforesaid direction, present writ petition is **disposed of**.

Order Date :- 16.10.2023

Anurag/-