

Court No. - 51

Case :- WRIT - C No. - 28312 of 2023

Petitioner :- Smt. Dulari Devi

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

Counsel for Petitioner :- Akarsh Dwivedi, Pranjal Kesarwani

Counsel for Respondent :- C.S.C.

Hon'ble Chandra Kumar Rai, J.

1. Heard Mr. Sugrat Dwivedi, Advocate holding brief of Mr. Akarsh Dwivedi, learned counsel for the petitioner and Mr. Abhishek Shukla, learned Additional Chief Standing Counsel for the State-respondents.

2. Learned counsel for the petitioner submitted that against the orders passed in the proceeding under Section 33/39 of U.P. Land Revenue Act, 1901 on 5.8.2002 & 29.4.2002, restoration application along with prayer for condonation of delay has been filed in the year 2022. He further submitted that the aforementioned restoration/ recall application along with prayer for condonation of delay is pending since 2022. He further placed the certified copy of the restoration application as well as the stay application filed in the restoration proceeding. He next placed the copy of the question answer annexed as Annexure No.3 to the writ petition in order to demonstrate that the restoration application is still pending in spite of expiry of more than one year.

3. Mr. Abhishek Shukla, learned Additional Chief Standing Counsel for the State-respondents submitted that the restoration application is highly time barred i.e. 21 years and there is no satisfactory explanation in the application filed on behalf of the petitioner. He further submitted that the writ petition for the expeditious disposal should not be entertained as the order passed in the summary proceeding was in accordance with law.

4. Considering the entire facts and circumstances, the instant writ petition is finally **disposed of** directing respondent no.3 i.e. Sub-Divisional Officer (Parganadhikari), Mirzapur to consider and dispose of the petitioners' delay condonation matter first against the orders dated 5.8.2002 & 29.4.2002. After considering the delay condonation matter, respondent no.3 will consider the restoration application in accordance with law after affording proper opportunity of hearing to both parties.

The aforementioned exercise shall be concluded expeditiously preferably within a period of three months from the date of production of certified copy of this order before respondent no.3.

5. It is made clear that this Court has not expressed any opinion on the merit of the delay condonation matter as well as on the restoration application.

Order Date :- 26.10.2023

Rameez