

Court No. - 10

Case :- WRIT - C No. - 29280 of 2023

Petitioner :- C/M Madarasha Arbiya And Another

Respondent :- State Of U.P. And 6 Others

Counsel for Petitioner :- Mohd. Ishraque Farooqui

Counsel for Respondent :- C.S.C., Wahaj Ahmad Siddiqui

Hon'ble Kshitij Shailendra, J.

1. Heard Shri Mohd. Ishraque Farooqui, learned counsel for the petitioners, learned Standing Counsel for respondent Nos. 1 to 5 and Shri Wahaj Ahmad Siddiqui, learned counsel for respondent No. 6.

2. A preliminary objection has been raised by Shri Siddiqui by placing reliance upon a copy of order dated 14.03.2023 passed by this Court in Writ C No. 4575 of 2023 (C/M Madarsa Arbiya and another vs State of U.P. and 5 others) and it is contended that the factum of filing and disposal of the said writ petition and also review proceedings has been deliberately concealed in the present writ petition.

3. Learned counsel for the petitioners submits that earlier writ petition was filed by the respondent side challenging certain orders, whereas this writ petition has been filed with different reliefs by the petitioners, as the first writ petition.

4. I have perused the reliefs claimed in the present writ petition and I find that Writ C No. 4575 of 2023 was filed challenging the orders dated 28.05.2018 and 05.01.2023 passed by the Assistant Registrar. Necessary pleadings in relation to these two orders are contained in the writ petition, however after referring the same, there is no disclosure of the earlier writ petition or its order or even review proceedings. The present writ petition was filed in August, 2023 i.e. after five months from the date of decision in the previous writ petition, i.e. 14.03.2023.

5. It is also brought to the notice of the Court that seeking review of the order dated 14.03.2023, the petitioners, represented by petitioner No. 2, Abrar Ahmad, filed Civil Misc. Review Application No. 380 of 2023 (Abrar Ahmad vs Committee of Management Madarsa Arbiya Sohailiya through its Manager Sri

Qamar Ali and another), which was also rejected by this Court by order dated 21.08.2023.

6. Although, learned counsel for the petitioners has tried to justify the non-disclosure of the previous proceedings, considering the nature of dispute and the reliefs claimed in the present writ petition, this Court is of the considered opinion that the petitioners have not approached this Court with clean hands and their interest in somehow to get an order, which they could not get in the earlier round of litigation. Whatever may be impact of the previous orders, once this Court is satisfied that equitable and discretionary jurisdiction has been utterly misused by the petitioners, the Court is not inclined to entertain this writ petition.

7. Apparently, the petitioner No. 2 in the present writ petition was respondent No. 3 in Writ C No. 4575 of 2023 and was represented by his learned counsel at the time of hearing of the case and, therefore, it cannot be believed that the petitioners had no knowledge of the previous litigation or that the previous writ petition was decided without issuing notice to him.

8. The writ petition is **dismissed** by imposing cost of **Rs.20,000/-** (Rupees twenty thousand only) upon the petitioner No. 2.

9. The Collector, Mirzapur is directed to recover the cost as arrears of land revenue from the petitioner No. 2 and he shall submit a report before the Registrar General of this Court **by the end of February, 2024.**

10. Registrar General of this Court is directed to send a copy of this order to the Collector, Mirzapur along with a copy of writ petition for compliance of this order.

Order Date :- 7.12.2023

Sazia