

Court No. - 51

Case :- WRIT - C No. - 29196 of 2023

Petitioner :- Ram Sahay

Respondent :- State of U.P. and Another

Counsel for Petitioner :- Alok Dubey

Counsel for Respondent :- C.S.C.

Hon'ble Chandra Kumar Rai,J.

1. Heard learned counsel for the petitioner and Mr. Rajesh Kumar Dwivedi, learned State-Law Officer for the State-respondents.

2. The instant petition has been filed for mandamus directing the respondent no.2 i.e. Assistant Collector/ Sub-Divisional Magistrate, Tahsil- Khajni, District- Gorakhpur, U.P. to decide the recall / restoration application dated 17.8.2021 along with the prayer for condonation of delay against the order dated 18.1.2021 dismissing the Suit No.20160531021561, under Section 116 of U.P. Revenue Code, 2006 for non-prosecution within stipulated period.

3. Learned counsel for the petitioner submitted that the aforementioned suit for partition has been dismissed arbitrarily for non-prosecution and the restoration application filed by the petitioner along with the prayer for condonation of delay is pending since 17.8.2021. He further placed the certified copy of the restoration application as well as the order passed by the Court dated 18.1.2021 dismissing the suit for non-prosecution.

4. Without expressing any opinion on merits of the case and keeping in view of the facts and circumstances, respondent no.2 is directed to decide the aforementioned restoration application dated 17.8.2021 filed in Case No.T20160531021561, under Section 116 of U.P. Revenue Code, 2006 after giving an opportunity of hearing to the parties in accordance with law expeditiously preferably within a period of two months from the date of production of certified copy of this order before him.

5. Accordingly, the writ petition is finally ***disposed of.***

Order Date :- 7.11.2023/Rameez