

Court No. - 40

Case :- WRIT - C No. - 31191 of 2023

Petitioner :- Majid Ali And 5 Others

Respondent :- Union Of India And 4 Others

Counsel for Petitioner :- Ramendra Pratap Singh, Alok Singh, Atiqur Rahman Siddiqui

Counsel for Respondent :- A.S.G.I., Akhilesh Kumar Mishra, C.S.C.

Hon'ble Mahesh Chandra Tripathi, J.

Hon'ble Prashant Kumar, J.

1. Heard Sri Ramednra Pratap Singh, learned counsel for the petitioners, Sri S.P. Singh, learned Additional Solicitor General of India assisted by Sri Akhilesh Kumar Mishra, learned counsel for the Union of India and Sri Rajmohan Upadhyay, learned standing counsel for the State-respondents.

2. The petitioners have assailed the validity of the orders impugned dated 24.01.2008 passed by the respondent under Sections 8 and 12 of the Enemy Property Act, 1968 (hereinafter referred to as 'the Act, 1968').

3. Sri S.P. Singh, learned A.S.G.I. has raised an objection regarding maintainability of the writ petition on four-fold submissions. *Firstly*, the present writ petition is preferred with an inordinate delay of 5603 days and only on the ground of delay and laches, this writ petition is liable to be dismissed. *Secondly*, against the orders dated 24.01.2008, petitioners have got efficacious remedy under Section 18 of the Enemy Property Act, 1968. *Thirdly*, he submits that against the order dated 17.04.2023 passed under Section 34 of the U.P. Revenue Code, 2006 whereby some corrections have been made, they have got efficacious remedy. *Fourthly*, even on merit, this writ petition is liable to be dismissed in view of Section 2 of the Enemy Property (Amendment and Validation) Act, 2017, by which following amendment in Section 2 of the Act, 1968 has been made:

"2. Amendment of section 2. on and from the date of commencement of the Enemy Property Act, 1968 in Section 2, -

(i) in clause (b),-

(I) for the words "an enemy subject", the words "an enemy subject including his legal heir and successor whether or not a citizen of India or the citizen of a country which is not an enemy or the enemy, enemy subject or his legal heir and successor who has changed his nationality" shall be substituted and shall always be deemed to have been substituted.

(II)

(III) for the words "does not include a citizen of India", the words "does not include a citizen of India other than those citizens of India, being the legal heir and successor

of the "enemy" or "enemy subject" or "enemy firm" , shall be substituted and shall always be deemed to have been substituted;

(IV)"

4. Confronted with this situation, learned counsel for the petitioners states that the present writ petition may be dismissed as not pressed but leave may be accorded to the petitioner to agitate before the competent forum.

5. Accordingly, the writ petition sans merit. **The writ petition is disposed of** with the aforesaid leave. Needless to say, it is open to the petitioners to press the relief before the competent forum.

Order Date :- 20.11.2023

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