

Court No. - 51

Case :- WRIT - C No. - 35344 of 2023

Petitioner :- Smt.Sushma Devi And Another

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

Counsel for Petitioner :- Satish Kumar Pandey,Pankaj Kumar Yadav

Counsel for Respondent :- CSC,Bhupendra Kumar Tripathi,Suresh C.
Dwivedi

Hon'ble Chandra Kumar Rai,J.

1. Heard Mr. Satish Kumar Pandey, learned counsel for the petitioners, Mr. M.C. Chaturvedi, learned Senior Counsel assisted by Mr. Suresh Chandra Dwivedi, learned counsel for respondent no.2, Mr. Govind Kumar Saxena, learned Additional Chief Standing Counsel for the State-respondents and Mr. Bhupendra Kumar Tripathi, learned counsel for the respondent- Gaon Sabha.

2. The instant petition has been filed against the order dated 3.4.2023 passed by respondent no.3 in the proceeding under Section 24 of U.P. Revenue Code, 2006.

3. Learned counsel for the respondents raised preliminary objection that order impugned is appealable under Section 24 (4) of U.P. Revenue Code, 2006, as such, the writ petition is liable to be dismissed on the ground of alternative remedy.

4. Learned counsel for the petitioners submitted that the order impugned has been passed in arbitrary manner without considering the scope of Section 24 of U.P. Revenue Code, 2006 in accordance with law, as such, the writ petition be entertained and decided on merit.

5. I have considered the argument advanced by learned counsel for the parties and perused the records.

6. There is no dispute about the fact that proceeding under Section 24 of U.P. Revenue Code, 2006 has been initiated by the petitioners, which has been decided after affording proper opportunity of hearing to the petitioners.

7. In view of the order passed by the Sub-Divisional Officer, under Section 24 of U.P. Revenue Code, 2006, the remedy of appeal as provided under Section 24 (4) of U.P. Revenue

Code, 2006 is very much available for the petitioner in which the grievance of the petitioners shall be considered in accordance with law.

8. The writ petition is disposed of finally with liberty to petitioners to file an appeal against the order impugned dated 3.4.2023 within period of ten days from today along with prayer for condonation of delay, which shall be disposed of by respondent no.3- Sub-Divisional Magistrate, Ghazipur in view of the provisions contained under Rule 183 (4) of U.P. Revenue Code Rules, 2016 taking liberal view on the delay condonation matter after affording proper opportunity of hearing to both parties.

Order Date :- 31.10.2023

Rameez