

Court No. - 39

Case :- WRIT - C No. - 32029 of 2023

Petitioner :- Jagbhushan Sharma

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

Counsel for Petitioner :- Bheem Singh,Aalok Singh,Sr. Advocate

Counsel for Respondent :- C.S.C.,Aditya Bhushan
Singhal,Bheem Singh

Hon'ble Saumitra Dayal Singh,J.

Hon'ble Shiv Shanker Prasad,J.

1. Heard Shri G.K. Singh, learned Senior Advocate, assisted by Shri Bheem Singh, learned counsel for the petitioner, Shri Aditya Bhushan Singhal, learned counsel for the respondent nos. 2 and 3 and learned Standing Counsel for the State.

2. At the outset, preliminary objection has been raised that the order dated 10.07.2023 is appealable.

3. Learned Senior Counsel for the petitioner would fairly state, that not only the order is appealable but the petitioner has filed an appeal on 01.08.2023, copy of which is annexed as Annexure-13 to the writ petition.

4. According to learned Senior Counsel, the cause arose to the petitioner to approach this Court because despite long pendency of appeal and stay application filed therein, the appeal authority has slept over the matter. Not only the appeal has not been entertained, no date has been fixed in the stay application filed along with the appeal.

5. In such facts and owing to such inaction on the part of the appeal authority, part demolition has taken place on 04.08.2023.

This has led to the filing of the present petition.

6. While we may not entertain the present writ petition on merits, in face of statutory alternative remedy of appeal already availed, at the same time, we record our displeasure at the conduct of the appeal authority as the stay application and the appeal filed by the petitioner have yet not been considered.

7. In demolition matters, there is inherent urgency in dealing with the stay application filed in appeals etc. Unless the citizen is assured that his stay application filed in such matters would be considered expeditiously, the very remedy of appeal and stay application may be rendered illusory.

7. Accordingly, the writ petition is **disposed of** with the direction upon the respondent no. 2/appeal authority to take up the appeal filed by the petitioner along with the stay application at an early date such that the appeal authority may necessarily pass appropriate orders in the stay application filed by the petitioner within a period of two weeks from today.

8. For a period of four weeks from today or passing of appropriate orders in the stay application, whichever is earlier, no further coercive measures may be adopted against the petitioner pursuant to the impugned order dated 10.07.2023 passed by the respondent no. 3.

Order Date :- 2.11.2023
SA

(Shiv Shanker Prasad, J.) (S.D. Singh, J.)