

Court No. - 40

Case :- WRIT - C No. - 33123 of 2023

Petitioner :- Tejveer

Respondent :- State Of U.P. And 28 Others

Counsel for Petitioner :- Pankaj Srivastava

Counsel for Respondent :- C.S.C

Hon'ble Mahesh Chandra Tripathi,J.

Hon'ble Prashant Kumar,J.

1. Heard Sri Pankaj Srivastava, learned counsel for the petitioner and Sri Devesh Vikram, learned Additional Chief Standing Counsel for the State-respondents.

2. The present writ petition has been preferred with the following reliefs:

"i. Issue a writ, order or direction in the nature of mandamus directing the respondent no.2 to decide the application of the petitioner dated 5.9.2023 withing stipulated period as fixed by this Hon'ble Court.

ii. Issue a writ, order or direction in the nature of mandamus directing the respondent no.3 to 29 to maintain the status quo during pendency of the original suit no.178/2023 filed by the petitioner before Civil Judge (Junior Division) Jewwar, District-Gautam Budh Nagar."

3. Learned Additional Chief Standing Counsel raised preliminary objection regarding maintainability of the writ petition as the relief has been asked for against private respondents arrayed as respondent nos.3 to 29. Moreover, a suit for injunction is also pending consideration. He submits that the matter is already pending consideration before the competent Civil Court, hence, no interference is required by this Court. He further submitted that a writ petition for enforcement of the common law remedies under Article 226 of the Constitution of India is not ordinarily maintainable for such reliefs against persons, who do not have any public duties to perform. It is for the competent Civil Court to consider the injunction application on the basis of balance of convenience and irreparable loss.

4. Considering the facts and circumstances, once the petitioners have already approached the appropriate forum under the relevant provisions and the matter is seized before the competent Civil Court, we are not inclined to entertain the present writ petition.

Needless to say that it is always open to the petitioner to press the application under Order XXXIX Rule 1 and 2 CPC before the competent Civil Court, if he has any grievances whatsoever.

5. With the aforesaid observations, the writ petition stands disposed of.

Order Date :- 31.10.2023

Manish Himwan