

Court No. - 40

Case :- WRIT - C No. - 33031 of 2023

Petitioner :- Minhaz Ahmad And Another

Respondent :- State Of Uttar Pradesh And 2 Others

Counsel for Petitioner :- Ashok Kumar Tripathi

Counsel for Respondent :- C.S.C.,Mohd. Saleem Khan

Hon'ble Mahesh Chandra Tripathi,J.

Hon'ble Ram Manohar Narayan Mishra,J.

Heard Sri Ashok Kumar Tripathi, learned counsel for the petitioner, Sri Mohd. Saleem Khan, learned counsel appearing for the U.P. Financial Corporation, respondent Nos. 2 and 3 and Sri Devesh Vikram, Additional Chief Standing Counsel for the respondent No.1.

The present writ petition is preferred for a direction commanding the respondent authorities to open the lock of petitioners shop without any further delay and the petitioners may not be dispossessed without adopting any due course of law.

Sri Mohd. Saleem Khan, learned counsel for the respondent corporation raised an objection regarding maintainability of the writ petition, and placed reliance on order dated 11.10.2022 passed by Hon'ble Supreme Court in SLP(C) No.1033 of 2014 (Deo Narain Jaiswal Vs. Chairman-Cum-Secretary through U.P. Financial Corporation and others), wherein the Apex Court had directed the respondent corporation to hold a fresh auction of the property in question so as to get the best price, and also further directed the respondent No.1(financial corporation) in the said proceedings to return the amount of Rs.2 Lakh to the appellant (Deo Narain Jaiswal) with the interest at the rate of 6 percent per annum from the date of deposit till the receipt thereof and also directed that corporation shall also refund the amount of Rs. 5 Lakh to the respondent No.6 alongwith interest at the rate of 6 percent per annum.

Learned counsel for the corporation further apprise to the Court in response to the aforesaid mandate, the possession is admittedly taken over and the process is on to settle the property through auction. He further raised an objection that for the same relief, the petitioners have already filed a Civil Suit in Original Application

No.198 of 2023 (Minhaz Ahmad and Ashish Kanodiya Vs. State of U.P. Finance Corporation, Gorakhpur through Manager and others) the same is also stated to be pending consideration.

He submits that the writ petition is liable to be dismissed on the ground of concealment of fact. He further submits that even on merit the entire action, as has been taken by the corporation, the same is in consonance with the mandate of the Apex Court.

Considering the facts and circumstance that once the petitioners have approached to this Court with concealment of material facts, we are not inclined to entertain the writ petition, the same is **dismissed.**

Order Date :- 8.12.2023

Ashish/-