

Court No. - 47

Case :- WRIT - C No. - 34685 of 2023

Petitioner :- Shubham Saini And Another

Respondent :- State Of U.P. And 7 Others

Counsel for Petitioner :- Santosh Kumar Upadhyay, Vinod Kumar Upadhyay

Counsel for Respondent :- C.S.C.

Hon'ble Manish Kumar Nigam, J.

1. Heard learned counsel for the parties and perused the record.

2. This writ petition has been filed for the following relief:

"I) Issue a writ, order or direction in the nature of mandamus commanding and directing the respondent no. 2 to consider and decide the stay application in the pending appeal being appeal no. 1697 of 2021 (Ravindra Vs. Suman and another) within stipulated period as fixed by this Hon'ble Court."

3. Contention of the learned counsel for the petitioner is that in ex-parte proceedings under Section 116 of U.P. Revenue Code, 2006 order dated 06.01.2020 has been passed against the petitioner. The petitioner filed a restoration application dated 02.12.2020 which was rejected by the trial court by order dated 06.10.2021. Thereafter, the petitioner filed the appeal on 28.10.2021 along with stay application.

4. By means of the supplementary affidavit, learned counsel for the petitioner has stated that the plaintiff/respondent Narendra Kumar has put in appearance on 23.05.2023 and for the rest of the respondents publication has been made.

5. It is stated by in paragraph no. 34 of the writ petition that during the pendency of the appeal, the respondents are raising construction over the disputed property. The stay application of the petitioner has not yet been considered.

5. No useful purpose would be served in keeping this petition pending.

6. Considering the facts and circumstances of the case, without expressing any opinion on the merits of the case, the present petition stands disposed of finally with a direction to respondent No. 2 Addl. Commissioner (Judicial) Saharanpur Division Saharanpur to consider and decide the aforementioned stay application, in accordance with law, expeditiously, preferably within a period of **two months** from the date of production of a certified copy of this order after giving opportunity of hearing to the parties concerned and without granting unnecessary adjournments to either of the parties provided that there is no other legal impediment.

7. It is further provided that for a period of three months or till the disposal of the stay application, the parties are directed to maintain status quo.

Order Date :- 28.10.2023

Ved Prakash

(Manish Kumar Nigam, J.)