

Court No. - 38

Case :- WRIT - C No. - 35639 of 2023

Petitioner :- Sangram

Respondent :- State Of U.P. And 11 Others

Counsel for Petitioner :- Manoj Kumar

Counsel for Respondent :- CSC,Bhupendra Kumar Tripathi

Hon'ble Ashutosh Srivastava,J.

1. Heard Sri Manoj Kumar, learned Counsel for the petitioner, Sri Bhupendra Kumar Tripathi, learned counsel representing the Goan Sabha/respondent no.12 and learned Standing Counsel for the State-respondent nos.1, 2 and 3.

2. Considering the nature of the controversy involved in the present writ petition, the service of notice upon the private respondents are being dispensed with.

3. Grievance raised by the petitioner in the present writ petition is that an order has been passed in a partition suit filed by the respondent nos.4 and 5 under Section 116 of the U.P. Revenue Code, 2006 registered as Case No.820 of 2016 (old), Case No.19086 of 2016 (New) on 4.11.2016. The partition suit was allowed ex parte on 21.3.2020. The appeal is stated to have been filed by the petitioner which has been registered as Appeal No.1885 of 2023 which is stated to be pending consideration. An application seeking interim relief has also been filed along with the appeal however no orders have yet been passed thereon. The next date fixed for consideration of the stay application has been fixed for 06.11.2023.

4. It is contended that though the appeal itself was filed on 29.9.2023 along with the stay application. However, the date '06.11.2023' has been fixed for its consideration. It has been submitted by learned counsel for the petitioner that the respondents are bent upon to give effect to the order passed in the partition suit and if the same is permitted to be given effect to the whole purpose of filing of the appeal will stand frustrated.

5. Having considered the submissions advanced by learned counsel for the petitioner, learned counsel for the Gaon Sabha and learned counsel for the State, this court is of the opinion that the writ petition can be disposed of by directing the appellate authority, i.e., Respondent no.2/Additional Commissioner, Administration, Varanasi Mandal, Varanasi seized with the appeal and the stay application of the petitioner to consider and pass appropriate order on the pending stay application preferably on the next date fixed, i.e., 06.11.2024.

6. Till the decision on the stay application, the parties are directed to maintain status quo.

7. Accordingly, the writ petition is **disposed of**.

Order Date :- 13.10.2023

A.N. Mishra