

Chief Justice's Court

Case :- WRIT - C No. - 35987 of 2023

Petitioner :- Shashi Mishra

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Raghwendra Prasad Mishra, Avneesh Tripathi

Counsel for Respondent :- C.S.C., Dharmendra Singh Chauhan

Hon'ble Pritinker Diwaker, Chief Justice

Hon'ble Ashutosh Srivastava, J.

Sri Raghwendra Prasad Mishra, learned counsel for the petitioner, learned Standing Counsel for the State-Respondents and Sri Dharmendra Singh Chauhan, learned counsel for Respondent Nos. 2, 4 & 5.

Petitioner is aggrieved by the order dated 10.03.2021, whereby Respondent No. 2 has directed for demolition of boundary wall/construction of the petitioner's property i.e. Plot No. 3 & 4 (area 250.83 sq. meter) Village, Vrindavan Khadar, Tehsil & District Mathura.

Undisputedly, against the order dated 10.03.2021, petitioner has preferred an appeal before the Respondent No. 2, Commissioner, Agra Division Agra along with an application for grant of stay. As the stay application has not been decided and the authorities were pressurizing the petitioner, he has filed this petition, seeking interim relief to the fact that the demolition activities may not take place.

Learned counsel for the petitioner submits that despite pendency of the petition before this Court, the part of the petitioner's house has been demolished yesterday i.e. 16.10.2023.

Learned counsel appearing for Development Authority submits that it is only the illegal construction, which has been demolished once the appeal preferred by the petitioner is pending, this writ petition is not maintainable.

We have heard the learned counsel for the parties.

Without entering into the merits of the case, the writ petition is

disposed of directing the Appellate Authority i.e. Respondent No. 2 to entertain the Appeal ignoring the point of limitation and to decide the stay application, as filed by the petitioner, within a week from the date of receipt of certified copy of this order and thereafter the appeal itself can also be decided.

Till a period of three weeks from today or the date of decision on the application for grant of interim relief, parties to maintain status quo.

Order Date :- 17.10.2023

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(Ashutosh Srivastava, J) (Pritinker Diwaker, CJ)