

Court No. - 51

Case :- WRIT - C No. - 35932 of 2023

Petitioner :- Harendra Pandey

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

Counsel for Petitioner :- Kamlesh Kumar Singh

Counsel for Respondent :- C.S.C., Bhupendra Kumar Tripathi

Hon'ble Chandra Kumar Rai, J.

1. Supplementary affidavit filed on behalf of the petitioner is taken on record.
2. Heard Mr. K.K. Singh, Counsel for the petitioner, Mr. S.P. Singh, learned Additional Chief Standing Counsel for the State-respondents and Mr. Bhupendra Kumar Tripathi, Counsel for respondent no.6, Gram Panchayat.
3. The instant petition has been filed against the order passed by respondent no.2, Additional Commissioner (Administration) Varanasi Division, District Chandauli in appeal under Section 331(3) of the U.P.Z.A. and L.R. Act as well as the order dated 19.5.2022 passed by Sub Divisional Officer in the proceeding under Section 176 of the U.P.Z.A. and L.R. Act.
4. Mr. S.P. Singh, learned Additional Chief Standing Counsel for the State-respondents submitted that against the order impugned, the remedy of second appeal is available under Section 331 (4) of the U.P.Z.A. and L.R. Act, as such, the writ petition is liable to be dismissed on the ground of alternative remedy.
5. I have considered the arguments advanced by learned Counsel for the parties and perused the records.
6. There is no dispute about the fact that order impugned is appealable under Section 331 (4) of the U.P.Z.A. and L.R. Act as provided in Schedule II as prepared under the U.P.Z.A. and L.R. Act and Rules framed thereunder. In U.P. Revenue Code, 2006 also in Third Schedule, the remedy of second appeal is mentioned before Board of Revenue against the order of Commissioner.
7. In view of the aforementioned facts and circumstances,

the writ petition is **dismissed** on the ground of alternative remedy of second appeal as provided under the Act and Rules framed thereunder. However, if petitioner file a second appeal under Section 331 (4) of U.P.Z.A. and L.R. Act before the Board of Revenue within period of **three weeks** from today along with the prayer for condonation of delay, the Board of Revenue shall decide the appeal expeditiously in accordance with law taking liberal view on the delay condonation matter.

Order Date :- 3.11.2023

Vandana Y.