

Court No. - 51

Case :- WRIT - C No. - 36108 of 2023

Petitioner :- Girja Shankar And 11 Others

Respondent :- State Of U.P. And 16 Others

Counsel for Petitioner :- Ravi Chandra Srivastava

Counsel for Respondent :- C.S.C

Hon'ble Chandra Kumar Rai,J.

1. Heard Mr. Ravi Chandra Srivastava, Counsel for the petitioners and Mr. Abhishek Shukla, learned Additional Chief Standing Counsel for the State-respondents.

2. The instant petition has been filed against the order passed by respondent no.2 in appeal under Section 331 (3) of U.P.Z.A. and L.R. Act.

3. Counsel for the petitioners submitted that suit filed by the plaintiff has been dismissed by the Trial Court in accordance with law but appeal under Section 331 (3) of the U.P.Z.A. and L.R. Act has been allowed and matter has been remanded back before Trial Court which is abuse of process of law. He submitted that suit has been dismissed in accordance with law as not maintainable, as such, no interference was required in appeal.

4. Mr. Abhishek Shukla, learned Additional Chief Standing Counsel for the State-respondents submitted that against the order impugned, remedy of second appeal is available as provided under Schedule II under U.P.Z.A. and L.R. Act, as such, writ petition is liable to be dismissed on the ground of alternative remedy.

5. I have perused the arguments advanced by learned Counsel for the parties and perused the records.

6. There is no dispute about the fact that suit under Section 229-B of U.P.Z.A. and L.R. Act was dismissed by the Trial Court but appeal under Section 331 (3) of U.P.Z.A. and L.R. Act filed on behalf of the contesting respondents has been allowed and matter has been remanded back before the Trial Court to decide the suit afresh.

7. The order impugned can be challenged by way of

second appeal before Board of Revenue, as such, writ petition is **dismissed** with liberty to petitioner to file second appeal before the Board of Revenue along with the prayer for condonation of delay. The Board of Revenue is directed to decide the second appeal on merit taking liberal view on the delay condonation matter.

Order Date :- 1.12.2023

Vandana Y.