

Court No. - 67

Case :- CRIMINAL MISC. WRIT PETITION No. - 16525 of 2023

Petitioner :- Shashi Singh

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Jaswant Singh,Amit Kumar Singh,Dharmendra Shukla

Counsel for Respondent :- G.A.,Mohd Aadil Siddiqui

Hon'ble Rahul Chaturvedi,J.

Hon'ble Mohd. Azhar Husain Idrisi,J.

Heard Sri I.K. Chaturvedi, learned Senior Counsel assisted by Sri Dilip Kumar Goswami, learned counsel for the petitioner, learned A.G.A. for the State-respondents, Sri Mohd. Aadil Siddiqui, learned counsel for the respondent no. 4 and perused the record.

By means of the present petition, the petitioner is assailing the legality and validity of the impugned attachment order dated 30.06.2023 passed by the respondent No. 2 relating to Flat No. 324 situated at Sri Vrindavan Dham Apartment, Raman, Reti, Vrindavan, District Mathura.

After hearing the arguments of learned counsel for the rival parties with rapt attention, we find that this is an interesting case whereby local police authorities have proceeded against respondent no.4 under the relevant provisions of U.P. Gangsters and Anti Social Activities (Prevention) Act, 1986.

It is alleged that respondent no.4 has got chequered past, consequently, local executive as well as police authorities have initiated the proceedings of attaching the property belongs to the respondent no.4.

As mentioned above, the present controversy surrounds around the above mentioned property i.e. Flat No. 324, which is situated at Sri Vrindavan Dham Building, Radha Tilla, Raman Reti, Vrindavan, Mathura.

Sri I.K.Chaturvedi, learned Senior Counsel candidly submits by drawing the attention of the Court to the Annexure No.1 to the writ petition, that the above property was transferred to the petitioner by executing a "Leasehold" property agreement dated 25.07.2021 by respondent no.4. The aforesaid instrument was executed by respondent no.4 after receiving Rs. 21 lacs from the petitioner and thereafter she has handed over/transferred the aforesaid flat to the petitioner and since then, the petitioner is in actual physical possession of the

property as lessee.

However, Mohd. Aadil Siddiqui, learned counsel for the respondent no. 4 vehemently disputed the authenticity and genuineness of the document/instrument in question (Annexure No.1), which is relied upon by the petitioner. Sri Siddiqui, learned counsel for the respondent no. 4 states that the Annexure No.1 is nothing but forged, fake and fictitious document and thus no credence could be attached to it.

The underlying idea of Section 14 and 15 of the U.P.Gangsters and Anti Social Activities(Prevention) Act, 1986 is that no gangster/offender should be permitted to enjoy the moveable or immoveable property from his ill-gotten wealth or he may not be permitted to exploit his nuisance value in the society.

On these factual aspect of the issue as canvassed by Sri I.K.Chaturvedi, learned Senior Counsel for the petitioner, we have got no instrument to check the authenticity and veracity of the alleged document/Annexure No.1, whose genuineness has been challenged by learned counsel for the respondent no.4.

Sri Chaturvedi, learned Senior Counsel has bank upon his submission solely on the basis of Annexure No.1. As mentioned above, we are at loss to gauge the authenticity of the aforesaid document in exercise of power under Article 226 of the Constitution of India. It is alleged by learned counsel for the petitioner that District Magistrate, Mathura and other responsible police official have initiated the proceedings against the petitioner for attaching the property under the aforesaid enactment and in the garb of said proceeding they are trying to attach the flat in question, which is allegedly belongs to the petitioner.

During argument, learned counsel for the petitioner has stated that petitioner has already moved an application/representation before District Magistrate, Mathura/I.G.Agra/SSP, Mathura/DGP, Lucknow and Chief Secretary, Lucknow, which is annexed as Annexure Nos. 5, 6 and 7 respectively under Section 15(1) of the U.P. Gangsters and Anti Social Activities (Prevention) Act, 1986 for release of property but the same application lying pending undecided.

Under these strange circumstances, let the contesting parties may appear before District Magistrate, Mathura/SSP, Mathura by 09.11.2023 and stake their claim over the property/ flat in question by providing the relevant document before him claiming title over the property and all other additional document on which they want to rely upon during this period.

The District Magistrate, Mathura/SSP, Mathura after affording

the personal hearing to the relevant parties or their counsel shall decide their claim over the property in question latest by 04.12.2023 an application annexed as Annexure Nos. 5,6 and 7 by a well reasoned order within the same period.

The petitioner, if she (the petitioner) is in the actual physical possession over flat in question as on today i.e. 18.10.2023, she shall not be ousted from the premises. Moreover, the said District Magistrate, Mathura who is already seized with the core issue to decide possession over the property in question and the authenticity and genuineness of Annexure-1 which was seriously disputed by opposite party no. 4, as such we have directed the authority concerned to decide the same at threshold stage. Till disposal of the representation under Section 15(1) U.P.Gangsters and Anti Social Activities (Prevention) Act, 1986, no action against flat in question shall be initiated or concluded till the above exercise is not over.

It is made clear that as soon as the matter is decided by the District Magistrate, Mathura or authority concerned, the parties shall abide by the decision.

It is further made clear that parties shall not sought any adjournment in this matter, otherwise an adverse inference would be drawn against them and District Magistrate, Mathura shall decide the issue by 04.12.2023 positively.

With this observation, the present writ petition stands disposed of.

Order Date :- 18.10.2023

Rmk.