

Court No. - 47

Case :- WRIT - C No. - 37842 of 2023

Petitioner :- Kushahar

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Anurag Rai

Counsel for Respondent :- CSC

Hon'ble Arun Kumar Singh Deshwal,J.

1. Heard Sri Anurag Rai, learned counsel for the petitioner and Sri Surendra Bahadur Singh, learned Standing Counsel for the State.

2. Present writ petition has been filed seeking following relief:

" A. Issue a writ order or direction in the nature of certiorari to quashing the impugned order dated 03.02.2021 as well as impugned order dated 17.02.2023 passed by Assistant Collector/ Tahsildar Tahsil Bansgaon, District Gorakhpur under Section 67 of U.P. Revenue Code 2006 bearing Case No. 02745 of 2020 Computer Case No. T202005310102743 (Gram Sabha Vs. Kushahar Sahani) by which the petitioner has ordered to evict from his property and recover the damages of Rs. 27200/- (Twenty Seven Thousand two hundred rupees) (Annexure Nos. 3 & 4) to this writ petition.

(B) To stay the effect and operation of impugned order dated 03.02.2021 as well as impugned order dated 17.02.2023 passed by Assistant Collector/ Tahsildar Tahsil Bansgaon, District Gorakhpur, under Section 67 of U.P. Revenue Code 2006 bearing Case No. 02745 of 2020 Computer Case No. T202005310102743 (Gram Sabha Vs. Kushahar Sahani).

(C) Issue any other writ order or direction which this Hon'ble Court may deem fit and proper under the circumstances of the case"

3. Contention of learned counsel for the petitioner is that the proceeding regarding Arazi No. 192 Kh M area 0.016 hectare under Section 67 of U.P. Revenue Code, 2006 which was culminated into order dated 03.02.2021, was absolutely illegal because earlier also proceeding under Section 122B of U.P.Z.A & L.R. Act was initiated for the same plot but the same was dropped. The recall application of the petitioner against the order dated 03.02.2021 was also rejected by the impugned order dated 17.02.2023.

4. Learned Standing Counsel has raised a preliminary objection that the orders impugned are appealable as per Section 67(5) of the U.P. Revenue Code, 2006.

5. In view of the above fact and legal position, the petitioner is permitted to file

appeal against the impugned order dated 03.02.2021 along with delay condonation application. In case such an appeal is filed along with delay condonation application, then delay condonation application as well as stay application of the petitioner will be decided within a period of one month and thereafter appeal will be decided expeditiously as per law laid down by this Court in **Daya Shankar vs. State of U.P. and 4 others; 2023(6) ADJ 181**, dated 19.05.2023.

6. With the aforesaid direction, the writ petition is **disposed of**.

Order Date :- 28.11.2023

Nitika Sri.