

Court No. - 40

Case :- WRIT - C No. - 36782 of 2023

Petitioner :- Hafiz Matloob Alam And 8 Others

Respondent :- Union Of India And 5 Others

Counsel for Petitioner :- Udai Chandani

Counsel for Respondent :- A.S.G.I.,C.S.C.,Vivek Kumar Singh

Hon'ble Mahesh Chandra Tripathi,J.

Hon'ble Prashant Kumar,J.

1. Heard Sri Prajyot Rai, learned counsel holding brief of Sri Udai Chandani, learned counsel for the petitioners, Sri Vivek Kumar Singh, learned standing counsel for Union Of India and Sri Ambrish Shukla, learned Additional Chief Standing counsel for the State-respondents.

2. By the instant writ petition, the petitioners seek for a direction commanding the respondent No.2 to decide the representation of the petitioners under Section 18 of the Enemy Property Act, 1986 dated 17.10.2022 by a reasoned and speaking order.

3. Sri Vivek Kumar Singh, learned standing counsel for Union Of India raised preliminary objection regarding maintainability of the writ petition on the ground that earlier the petitioners have invoked the writ jurisdiction by filing Writ-C No.37811 of 2022 (Hafiz Matloob Alam And 8 Others vs. Union Of India And 5 Others), wherein, similar relief qua the same property had been pressed, which has been disposed of by Division Bench vide order dated 02.03.2023 on the ground of efficacious remedy available to the petitioners to press the application under Section 18 of the Enemy Property Act, 1986, therefore, for the same cause of action, the present writ petition is liable to be dismissed and to be treated as second writ petition.

4. We have proceeded to examine the record, especially the order dated 02.03.2023, which is reproduced as under:-

"Heard learned counsel for the petitioner, Sri Vivek Kumar Singh, learned counsel for the respondent nos. 1, 2, 3 and 6 and learned Standing Counsel for the State-respondent.

By the instant petition, petitioners seek the following relief:

"I) Issue a writ, order or direction in the nature of mandamus directing-commanding the respondents not to interfere in the peaceful possession of the property situated at 92/140,

Heeraman Ka Purwa, Pioneer Compound, Jogi Wali Gali, Kanpur Nagar belonging to the petitioners."

Sri Vivek Kumar Singh, at the outset, submits that the petitioners have remedy under section 18 of the Enemy Property Act, 1986.

In view thereof, on consent, the writ petition is disposed of as withdrawn with liberty to the petitioners to take remedy, as per law. It is clarified that in the event the representation of the petitioners is filed within four weeks from date, it is expected that the competent authority of the Central Government shall consider and decide the same on merit, after affording opportunity of hearing to all the aggrieved parties, including, the State respondents. The status quo, in respect of the property, shall be continue during pendency and disposal of the representation of the petitioner, which shall abide by the order to be passed by the competent authority.

It is clarified that the Court has not considered the claim and contentions of the parties on merit."

5. The objection is sustainable and accordingly, we hold that the present writ petition is a second writ petition for the same cause of action, which is not maintainable in view of Rule 7 of Chapter XXII of the Rules of the Court.

6. Confronted with this situation, learned counsel for the petitioners states that he is not inclined to press the present writ petition and the same may be dismissed as not pressed.

7. Accordingly, the writ petition is **dismissed as not pressed.**

Order Date :- 6.12.2023

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