

Court No. - 47

Case :- WRIT - C No. - 37140 of 2023

Petitioner :- Surendra Kumar And Another

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

Counsel for Petitioner :- Sushil Kumar Shukla

Counsel for Respondent :- C.S.C.,Kaushal Kishore Mani

Hon'ble Manish Kumar Nigam,J.

1. Heard learned counsel for the petitioner, learned Standing Counsel for the State and perused the record.

2. The instant writ petition has been filed for following relief:

"a) issue a writ order or direction in the nature of mandamus directing to learned Court of Additional Commissioner, Administration-II, Saharanpur Mandal Saharanpur/ respondent no. 2 to decide the stay application in admitted Appeal / Case No. 1044 of 2023, Computerized Case No. C-202309000001044 Surendra Kumar and another Vs. Gram Panchayat/Gram Sabha Shepur and others, under Section 38(4) U.P. Revenue Code, 2006, within stipulated time.

b) issue a writ order or direction in the nature of mandamus directing the respondent no. 3 and his subordinate officer not to dispossess the petitioners over the land in dispute and not to destroy/remove the standing crops of the petitioner from their possession of land and maintain the status quo till the disposal of stay application in Appeal / Case No. 1044 of 2023, Computerized Case No. C-202309000001044 Surendra Kumar and another Vs. Gram Panchayat/Gram Sabha Shepur and others, under Section 38(4) U.P. Revenue Code, 2006, within stipulated time."

3. Contention of the learned counsel for the petitioner is that appeal has been admitted but no order have been passed on the stay application. Learned counsel appearing for the petitioner relied upon the judgment of the Apex Court in case of **Mool Chand Yadav Vs. Raza Buland Sugar Company Limited, reported in 1982, Volume (3) SCC 484** and the judgment in case of **Ali Sher Vs. State of U.P. Through Collector reported in 2007 Volume 102 RD 498**, wherein the Apex Court as well as this Court has taken the view once the appeal or revision is admitted, then the appellate/ revisional court shall normally grant interim order as the orders impugned are of civil consequences.

4. No useful purpose would be served in keeping this petition pending.

5. Considering the facts and circumstances of the case, without expressing any opinion on the merits of the case, the present petition stands disposed of finally with a direction to respondent No. 2 Additional Commissioner, Administration-II, Saharanpur Mandal Saharanpur to consider and decide the aforementioned stay application, in accordance with law, expeditiously, preferably within a period of **two months** from the date of production of a certified copy of this order after giving opportunity of hearing to the parties concerned and without granting unnecessary adjournments to either of the parties provided that there is no other legal impediment.

6. Till disposal of the stay application, the parties are directed to maintain status quo.

Order Date :- 30.10.2023

Ved Prakash

(Manish Kumar Nigam, J.)