

Court No. - 43

Case :- CRIMINAL MISC. WRIT PETITION No. - 16901 of 2023

Petitioner :- Smt. Shamsad Begam

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

Counsel for Petitioner :- Dhirendra Srivastava

Counsel for Respondent :- G.A.

Hon'ble Anjani Kumar Mishra,J.

Hon'ble Shekhar B. Saraf,J.

1. Heard learned counsel for the petitioner and learned A.G.A. for the State.
2. Challenge in the writ petition is to the order dated 27.5.2008 passed by the District Magistrate, Azamgarh in Case No.6 of 2008, under Section 14(1) of the U.P. Gangster Act whereby Plot Nos.424 and 322 (Old Nos.353, 409 and 354) situated in Village Khalispur, Pargana Sagari, District Azamgarh were attached. Challenge is also made to the order dated 3.4.2023 which is an amaldaramad made in the Khatauni of 1428-1433 Fasli with regard to Khata No.424.
3. The contention of learned counsel for the petitioner is that she is a bonafide purchaser of these plots by means of registered sale deeds executed in her favour on 3.12.2010 and 14.12.2010. Further contention is that the order of the District Magistrate dated 27.5.2008 was never given effect to in the revenue record and, therefore, the petitioner purchased the land. It is also contended that on account of the petitioner intermediating with the property, which was under attachment since the year 2008, an F.I.R. was lodged wherein the petitioner has been bailed out.
4. Insofar as the challenge to the order of the District Magistrate dated 27.5.2008 is concerned, the same is not against the petitioner and, therefore, the petitioner has no right to challenge the same. In any case, challenge to an order of amaldaramad in revenue record is not tenable. It is only an order whereby an amaldaramad has been ordered to be made which may be subject matter of challenge but such challenge has to be made before the concerned revenue court. The petitioner is before this Court in a criminal writ petition.

5. The issue as to whether the petitioner is a bona fide purchaser or not, in our considered opinion, may be determined only by a competent court in a suit for declaration which the petitioner may file, if so advised.

6. Subject to above observations, the writ petition fails and is dismissed.

Order Date :- 17.11.2023

Rakesh