

Court No. - 46

Case :- WRIT - C No. - 38614 of 2023

Petitioner :- Dr. Suresh Kumar Prajapati And 2 Others

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

Counsel for Petitioner :- Devid Kumar Singh, Prateek Rai

Counsel for Respondent :- C.S.C., Ravi Prakash Pandey

Hon'ble Ashwani Kumar Mishra, J.

Hon'ble Syed Aftab Husain Rizvi, J.

1. Heard learned counsel for petitioners and Sri Ravi Prakash Pandey, learned counsel for respondent No.3.

2. This petition has been filed with the prayer to restrain the development authority from acting upon the order of demolition passed on 11.10.2022 under Section 27(1) of the U.P. Urban Planning and Development Act, 1973 (hereinafter referred to as 'Act 1973'). It is further prayed that since original suit is pending, therefore, the authorities be restrained from dealing with the property in any manner.

3. The writ petition apparently is misconceived since it is admitted that the order of demolition has been challenged by the petitioner in appeal before the Divisional Commissioner.

4. Remedy of the petitioner would thus be to either avail appropriate protection in the pending appeal or to obtain injunction from the competent court.

5. Leaving it open to the petitioner to pursue the appropriate remedy in the pending appeal this petition is consigned to record. It however, provided that in the event a stay application is preferred in the appeal within a week from today the same shall be dealt with expeditiously and in accordance with law, after hearing the parties concerned.

6. Subject to the observation made above, this petition is consigned to record.

Order Date :- 28.11.2023

Md Faisal