

Court No. - 67

Case :- CRIMINAL MISC. WRIT PETITION No. - 17418 of 2023

Petitioner :- Ateeq Ahmad

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Vikrant Pandey,Rajesh Mishra

Counsel for Respondent :- G.A.

Hon'ble Rahul Chaturvedi,J.

Hon'ble Syed Qamar Hasan Rizvi,J.

Heard Shri Vikrant Pandey, learned counsel for the petitioner and learned A.G.A. and perused the record of the case.

By means of the present writ petition, following prayer has been made.

'1. Issue a writ, order or direction in the nature of certiorari to call for record of the case and to quash the order dated 28.8.2020 passed by respondent No. 2 attaching the house of the petitioner under Section 14(1) of Uttar Pradesh Gangster and Anti Social Activities (Prevention) Act wrongly describing this property to be related to the gangster (now dead) having the same name as of the petitioner so far as it relates to the house of the petitioner at Srl. No. 5

2. Issue a writ,order or direction in the nature of mandamus commanding the respondents not to take any coercive action against the petitioner including the attachment of the house of the petitioner and dispossession of the petitioner from his house having house No. KM-41, Karely, Gaus Nagar, police station Karely, Allahabad.'

Submission made by learned counsel is that it is a case of mistaken identity. The petitioner is residing in House No. KM-41, Karely, Gaus Nagar, police station Karely, Allahabad. Since the name of the petitioner is identical to one ill famed personality of the town, therefore, the local police are against him under wrong impression and passed the order of the property attaching the property numbered above. The paternity of Ateeq Ahmad-petitioner is late to Abdul Mannan, who has got no relation or even remotely connected with that ill-famed person of Allahabad, therefore, the present prosecution/attachment of his propety under U.P. Gangsters Act against the petitioner should be directed to be withdrawn.

Learned A.G.A. in this regard has shown us the relevant provision of the Gangsters Act, 1986.

Section 15 of the said Act is reproduced hereinbelow:-

*"15. **Release of property.** - (1) Where any property is attached under Section 14, the claimant thereof may within three months from the date of knowledge of such attachment make a representation to the District Magistrate showing the circumstances in and the sources by which such property was acquired by him.*

(2) If the District Magistrate is satisfied about the genuineness of the claim made under sub-section (1) he shall forthwith release the property from attachment and thereupon such property shall be made over to the claimant."

Learned counsel for the petitioner prays for and granted liberty to the petitioner to prefer a fresh detailed representation within a period of ten days from today pursuant to Section 15 The Uttar Pradesh Gangsters and Anti-Social Activities (Prevention) Act, 1986 before the District Magistrate, Prayagraj or other competent police authority of the district annexing the relevant documents showing and disassociating himself from any other person establishing the fact that petitioner has got exclusive domain over the property in question.

The District Magistrate after giving opportunity of personal hearing to the petitioner in person or through his counsel, shall pass a well reasoned and speaking order within a period of 40 days from the date of the filing of the aforesaid representation.

Till the disposal of the representation, no coercive action shall be taken against the petitioner or his already attached property pursuant to the order dated 28.8.2020 passed in the aforesaid case.

With the aforesaid observation and direction, the writ petition is disposed of.

Order Date :- 20.11.2023

Sumaira