

Court No. - 47

Case :- WRIT - C No. - 39838 of 2023

Petitioner :- Azhar Ali Shah

Respondent :- State Of U.P. And 5 Others

Counsel for Petitioner :- Adya Prasad Tewari

Counsel for Respondent :- C.S.C

Hon'ble Manish Kumar Nigam,J.

1. Heard learned counsel for parties and perused the record.

2. This writ petition has been filed for following prayer:

"(i) issue a writ, order or direction in the nature of certiorari quashing the impugned order dated 02.09.2023 passed by the Naib Tehsildar Sardar Nagar, Tehsil Chauri Chaura, District Gorakhpur in Case No. RST/5494/2022, Azhar Ali Shah Vs. Syed Jawwad Ali Shah, in a proceeding u/s 33(1) read with Section 209(H) U.P. Revenue Code, 2006 (Contained in Annexure No. 7 to the writ petition)."

3. It has been strongly contended by learned counsel for the petitioner that order dated 20.03.2023 was passed in Case No. T202205310505494 (Azhar Ali Shah v. Syed Jawwad Ali Shah Janseen), a recall application has been filed by the respondent nos. 4 & 5 and by an order dated 02.09.2023, without condoning the delay, the operation of the order dated 20.03.2023 has been stayed. It is further contended by learned counsel for the petitioner that the court has erroneously exercised its jurisdiction in granting interim order without condoning the delay in filing the restoration application. It has also been informed by learned counsel for the petitioner that the petitioner has appeared in the restoration proceedings.

4. In view of the same, that the restoration application is pending and petitioner has appeared and objections have been filed by the petitioner in the aforesaid proceedings, 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. 3/Naib Tehsildar Sardar Nagar, Tehsil Chauri Chaura, District Gorakhpur to consider and decide the aforementioned restoration application, in accordance with law, expeditiously, preferably within a period of **one month** 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.

Order Date :- 21.11.2023/Ved Prakash