

Court No. - 80

Case :- CRIMINAL MISC. WRIT PETITION No. - 18025 of 2023

Petitioner :- Sageer Khan

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

Counsel for Petitioner :- Ram Chandra Solanki, Prabhat Chandra Maurya

Counsel for Respondent :- G.A.

Hon'ble Subhash Chandra Sharma, J.

Heard learned counsel for the petitioner as well as learned A.G.A. for the State and perused the material on record.

The present writ petition under Article 226 of the Constitution of India has been moved with following prayers :-

I- To issue a writ, order or direction in the nature of Mandamus directing the respondent no.2 to consider the Misc. Stay Application filed with the appeal bearing Computer Case No.C202315000001499 (Sageer vs. District Magistrate, Mau) u/s 6(1) of Control of Gundas Act, 1970.

II- To issue a writ, order or direction in the nature of Mandamus directing the respondents not to take coercive action of externment from district against the petitioner during pendency of appeal bearing Computer Case No.C202315000001499 (Sageer vs. District Magistrate, Mau) u/s 6(1) of Control of Gundas Act, 1970 pending in the court of respondent no.2.

III- To issue a writ, order or direction in the nature of Mandamus directing the respondents to permit the petitioner to participate in marriage programme of his daughter i.e. on 26.11.2023.

It is submitted by learned counsel for the petitioner that an order for externment under Section 3(1) U.P. Control of Goondas Act, 1970 was passed by the District Magistrate, Mau in Case No.1164 of 2022 vide order dated 10.10.2023 on the basis of report dated 27.05.2022 against which an appeal was filed before the Commissioner, Azamgarh Division, Azamgarh which was admitted and is still pending but no stay order of externment was passed. It is also submitted that there is marriage ceremony of his daughter at the house and being father he is to perform certain rituals in this regard, therefore,

requested to direct the court concerned not to take any coercive action against the petitioner in pursuance of externment order dated 10.10.2023 during the pendency of appeal and to decide the appeal as expeditiously as possible.

Learned A.G.A. urged that in this case order was passed by the District Magistrate, Mau on the basis of material on record and against which appeal was filed but he has nothing to object about the stay of operation of order for externment during the pendency of appeal.

Considering the facts and circumstances of the case, submissions made by learned counsel for both the parties, perusal of record and the order passed by the Commissioner at the time of admission of appeal, it appears that though the appeal has been filed and is still pending before the court of Commissioner for final hearing but no order for staying the implementation of externment was passed which cannot be said to be lawful.

As a result, it is directed that the order dated 10.10.2023 passed by the District Magistrate, Mau for externment and under challenge in appeal shall remain in abeyance during the pendency of appeal.

It is also directed that Commissioner, Azamgarh Division, Azamgarh shall make his endeavour to decide the appeal of the petitioner as expeditiously as possible preferably within a period of **90 days** from the date of production of certified copy of this order.

Accordingly, this writ petition is ***disposed of*** finally.

Order Date :- 21.11.2023

Ashok Gupta