

Court No. - 5

Case :- WRIT - C No. - 40161 of 2023

Petitioner :- Mukesh Kumar Verma

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

Counsel for Petitioner :- Vinod Singh, Suraj Kumar Singh

Counsel for Respondent :- C.S.C.

Hon'ble Piyush Agrawal, J.

Heard learned counsel for the petitioner and learned Standing Counsel for the State-respondents.

By means of present writ petition, the petitioner has assailed the order dated 12.10.2023 passed by respondent no.2 in Case No.3441 of 2023 (Mukesh Kumar Verma Vs. Surasti Devi and others), under Section 16 of UP Maintenance & Welfare of Parents & Senior Citizen Act, 2007 & order dated 27.05.2023 passed by Sub-Divisional Magistrate, Varanasi in Case No.3205 of 2023 (Surasti Devi Vs. Mukesh Kumar Verma & Ors) (Computer Case No. T202314700303205), under Section 7(1) UP Maintenance & Welfare of Parents & Senior Citizen Act, 2007.

Learned counsel for the petitioner submits that against the order dated 27.05.2023, the petitioner preferred an appeal under Section 16 of UP Maintenance & Welfare of Parents & Senior Citizen Act, 2007, which has been rejected on the ground that the appeal is not maintainable.

He further submits that there is a direct judgment, on an identical sets of facts, passed in **Writ C No.21188 of 2021(Smt. Roopam @ Jyoti Sharma and Anr. Vs. District Magistrate Lucknow and Ors.)**, wherein it has been held that the appeal is maintainable against the judgment/order from which the parties are affected.

After hearing the parties and looking to the facts of the afore-quoted judgment of this Court, no useful purpose would be served by keeping this petition pending in view of the order, which the Court proposes to pass order hereunder.

No notice is required to be issued to the respondents no. 4 & 5 in view of the order, which the court proposes to pass hereunder at this stage.

By the impugned order, the appeal has been rejected mainly on the ground of non-maintainability but while passing the impugned order, the judgment passed by this Court in the case of **Smt. Roopam (supra)** has not been taken into consideration.

In view of the above, the impugned order dated 12.10.2023 is set aside and the present petition is **allowed**.

The appeal is restored to its original number

The respondent no.2 is directed to decide the appeal afresh after taking into consideration the Judgment passed in the case of **Smt. Roopam (supra)** in accordance with law after hearing all the stakeholders.

Order Date :- 30.11.2023

Pravesh Mishra