

Court No. - 47

Case :- WRIT - C No. - 40810 of 2023

Petitioner :- Awadhesh

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

Counsel for Petitioner :- Munna Tiwari

Counsel for Respondent :- C.S.C.,Sudhir Bharti

Hon'ble Arun Kumar Singh Deshwal,J.

1. Heard Sri Munna Tiwari, learned counsel for the petitioner, Sri Sudhir Bharti, learned counsel appearing for respondent No. 5 and Sri Anand Bhaskar Srivastava, learned Standing Counsel for the State.

2. Present writ petition has been filed seeking following relief:

"i. Issue a writ, order or direction in nature of mandamus directing to respondents authority to not demolish the construction of Petitioner which is establish at Arazi No. 527 situated at village Sakhopar Tehsil Kasia District Kushinagar, during the pendency of the restoration application against the order 30.07.2019, otherwise the petitioner."

3. Contention of the learned counsel for the petitioner is that proceeding under Section 67 of U.P. Revenue Code, 2006 was initiated against him regarding encroachment of Arazi No. 1520, village Sakhopar Tehsil Kasia District Kushinagar, which was culminated into order dated 25.02.2017. Against that order, the petitioner had filed a recall application dated 10.04.2017 on the ground that same was ex-parte. Thereafter, petitioner also preferred an appeal against the order dated 25.02.2017, same was dismissed by District Magistrate by order dated 02.03.2020 on the ground that recall application against the impugned order is pending before the Tehsildar and further direction was also made in the appeal that the recall application of the petitioner be decided within a period of one month. Counsel for the petitioner submits though there was the direction in the appeal to decide the recall application of the petitioner within a period of one month but till date, recall application of the petitioner has not been decided and Tehsil authorities are proceeding to demolish the construction over the land in dispute.

4. This Court in the case of **Daya Shankar vs. State of U.P. and 4 others; 2023(6) ADJ 181**, dated 19.05.2023, has already issued detailed directions for disposing of cases referable to the U.P. Revenue Code, 2006.

5. In pursuance of the aforesaid judgement, the State Government has also issued Notification/ Government Order dated 6th September, 2023 directing all the revenue authorities/ revenue courts to decide the proceedings of U.P. Revenue Code, 2006 in a time bond manner.

6. In view of above, the present petition is **disposed of** in terms of **Daya Shankar (supra)** case as well as Government Order dated 6th September, 2023.

7. It is made clear in **Daya Shankar (supra)** case that all the recall applications will be decided within a period one month and for a period of one month no coercive action shall be taken against the petitioner.

Order Date :- 28.11.2023

Nitika Sri.