

Court No. - 47

Case :- WRIT - C No. - 41904 of 2023

Petitioner :- Avadhesh And 2 Others

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

Counsel for Petitioner :- Ram Pratap Yadav, Akash Yadav, Devbratt Yadav

Counsel for Respondent :- C.S.C., Rameshwar Prasad Shukla

Hon'ble Manish Kumar Nigam, J.

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

2. The instant petition has been filed seeking following relief :-

"i) Issue a writ order or direction in the nature of certiorari for quashing the entire proceeding of Appeal being Appeal No.67/A Computer Case No.C202315000000189 (Rajdev Ram v. Avadhesh and Others) filed under section 331(3) of U.P.Z.A. and L.R. Act, including the Order dated 19.10.2023 passed in the appeal aforesaid contained in Annexure No.6 to the writ petition, in the better interest of justice.

ii) Issue a writ order or direction in the nature of mandamus commanding the Commissioner Azamgarh Division, Azamgarh not to proceed further in the matter, in the better interest of justice."

3. Contention of learned counsel for the petitioners is that the appeal filed by the opposite party which is impugned in the writ petition, is not maintainable.

4. Since the appeal is pending before the Appellate Court, petitioners may raise all the objections as to the maintainability of the appeal before the Appellate Court itself.

5. In view of the above, the present petition stands **disposed of** with a direction that in case petitioners file an objection as to the maintainability of the appeal, the same shall be considered and decided by the Appellate Court, in accordance with law, expeditiously, preferably within a period of **three months** from the date of production of a certified copy of this order after giving opportunity of hearing to all the parties concerned and without granting unnecessary adjournments to either of the parties provided there is no other legal impediment.

6. Objection, as to the maintainability of the appeal, be considered first by the Appellate Court before deciding the appeal finally.

Order Date :- 5.12.2023

Rishabh

[Manish Kumar Nigam, J.]