

**Court No. - 6**

**Case :-** WRIT - C No. - 42940 of 2023

**Petitioner :-** M/S Ansh Corporation

**Respondent :-** Presiding Officer Motor Accident And 6 Others

**Counsel for Petitioner :-** Vidya Kant Rai, Awadhesh Kumar  
Malviya

**Counsel for Respondent :-** C.S.C.

**Hon'ble Mrs. Manju Rani Chauhan, J.**

Heard Mr. A.K. Malviya, learned counsel for the petitioner and learned Standing Counsel for the State-respondents.

The writ petition has been filed with a prayer to quash the impugned order dated 05.10.2021, recovery certificate dated 13.07.2023 issued by respondent no.1 as well as order dated 21.09.2023 passed by respondent no.1.

Learned counsel for the petitioner submits that against the ex-parte award dated 12.01.2021, the petitioner moved a recall application on 21.09.2023, which has been rejected on the same date i.e. 21.09.2023, on the ground that the petitioner has remedy of moving an application under Order 9 Rule 11 C.P.C. as well as Rule 221 of U.P. Motor Accident Claim Tribunal Rule, 1988, however, on the other hand has directed the authority for proceeding with the recovery. Learned counsel for the petitioner further submits that the order is unjust and arbitrary as on one hand remedy is being granted to approach before proper forum, however, on the other hand, direction to the authorities to proceed with the recovery has been issued, which is unreasonable and cannot be justified in the eyes of law.

The petition is being disposed off without issuing notices to the private respondents as well as insurance company, in view of order

being passed by this Court.

Be that as it may, the competent Court while rejecting the recall application of the petitioner has granted liberty to avail appropriate remedy before proper forum, therefore, the direction to the authorities to proceed with recovery proceedings is not justified.

In view of above, the order dated 05.10.2021 is quashed to the extent of direction of recovery being given to the authorities to proceed against the petitioner.

The petitioner is directed to approach proper forum within a period of three weeks from today, in case, such an application is moved before the proper forum, the same may be decided by the concerned authority, in accordance with law, within a period of one month thereafter.

Till the period of two months, no coercive action shall be taken against the petitioner.

**Order Date :- 14.12.2023**

Rahul.