

Court No. - 80

Case :- CRIMINAL MISC. WRIT PETITION No. - 19289 of 2023

Petitioner :- Tejpal And Another

Respondent :- State of U.P. and Another

Counsel for Petitioner :- Harikesh

Counsel for Respondent :- G.A.

Hon'ble Subhash Chandra Sharma,J.

Heard learned counsel for the petitioners 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 prayer :-

I- Issue a writ, order or direction in the nature of Certiorari quashing the order dated 3.2.2023 passed by S.D.M. Bisalpur where preliminary order has been passed under Section 145(1) Cr.P.C. as well as order dated 3.2.2023 passed by preliminary order under Section 146(1) Cr.P.C. passed by S.D.M. Bisalpur, Pilibhit.

It is submitted by learned counsel for the petitioners that an order dated 18.7.2023 was passed by the learned S.D.M. on an application moved on 17.2.2023 relating to recall of order passed under Section 146(1) Cr.P.C. by learned court which was rejected by passing the order in question in this writ petition and direction was given to both the parties to lead the evidence regarding their possession. Being aggrieved with this order, present petition has been filed, therefore, request to set aside the order passed by learned S.D.M. as aforesaid as it being illegal.

Learned A.G.A. opposed the prayer as aforesaid and contended that in this case, show cause notice was given to the petitioners to which an order under Section 146(1) Cr.P.C. was passed simultaneously regarding which he filed an application to recall the order which was rejected in view of matter being of emergency and possibility of breach of peace between the parties relating to the possession of immovable property and parties were directed to lead evidence. The petitioners are to lead the evidence before the learned court concerned and then order is to be passed finally.

On considering the facts and circumstances of the case, submissions made by learned counsel for the petitioners as well as learned A.G.A. perusal of record and order passed by learned S.D.M. on 18.7.2023 it is expedient to direct the petitioner to lead evidence before the learned court concerned regarding their possession on land in dispute. Learned court concerned is also directed to decide the matter within a period of 60 days from the date of production of certified copy of this order without granting any unnecessary or long adjournments to either of the parties, if there is no other legal impediment.

With the above observation, the present petition is ***disposed of*** finally.

Order Date :- 14.12.2023

A. Singh