

Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 2308 of 2022

Petitioner :- Ram Gopal Gupta

Respondent :- State Of U.P. Thru. Prin. Secy. Home Deptt.
And Another

Counsel for Petitioner :- Mukul Kumar Sharma, Kaustubh Singh

Counsel for Respondent :- G.A.

Hon'ble Mrs. Sangeeta Chandra, J.

Hon'ble Narendra Kumar Johari, J.

Heard learned counsel for the petitioner, learned A.G.A. for the State/respondents and perused the material placed on record.

This writ petition has been filed with the following main prayers :-

"(i) Issue a writ, order or direction in the nature of certiorari, quashing the impugned notice/order of attachment of the property dated 05.04.2022, passed by opp. party no.2, under the provisions of Section 14 (1) of the Uttar Pradesh Gangsters and Anti-Social Activities (Prevention) Act, 1986 (U.P. Act No.7 of 1986), Police Station Kumarganj, District Ayodhya, as contained in Annexure No.1 to the writ petition.

(ii) Issue a writ, order or direction in the nature of mandamus, commanding the opp-parties to break-open the seal, affixed on the main door of the residential house, situated on Plot No.2/41, Virat Khand, Gomti Nagar, Police Station Gomti Nagar, Lucknow."

Learned A.G.A. has filed counter affidavit on behalf of respondent No.2 wherein it has been stated that Section 14 (i) of the U.P. Gangsters Act has been invoked and the properties of the petitioner have been attached on the basis of the report submitted by the Senior Superintendent of Police dated 26th March, 2022, and other evidence on record, a copy of the report of the S.S.P., Ayodhya dated 26th March, 2022 has been filed as Annexure No.CA-2 and the attachment order dated 05.04.2022 has been filed as Annexure No.CA-3 to the affidavit.

Learned A.G.A. has pointed out that against the order of attachment, the petitioner has statutory remedy of filing an

appeal. It has also been stated by learned counsel for the State/respondents that since no representation has been filed by the petitioner against the order of provisional attachment, perhaps the provisions of Section 16 (i) of the Gangsters Act, 1986 would apply, which state that where no representation is made within the period specified in sub section (i) of section 16 "within three months from the date of knowledge of such attachment" or the District Magistrate does not release the property under sub section (ii) on such representation being made to him, then the District Magistrate shall refer the matter with his report to the court having jurisdiction to try an offence under the Act.

The affidavit of the District Magistrate, Ayodhya has not stated anywhere that the matter has been referred to the concerned court but since the statutory period of making a representation against the order of provisional attachment has already lapsed, it would be appropriate that the petitioner approaches the court concerned for release of his property and redressal of his grievance.

Accordingly, the writ petition is **disposed of** leaving it open for the petitioner to approach the court concerned.

Order Date :- 16.12.2023

ML/-