

Court No. - 9

Case :- CRIMINAL MISC. WRIT PETITION No. - 4359 of 2023

Petitioner :- Narendra Pal Singh

Respondent :- State Of U.P. Thru. Addl. Chief Secy./Prin. Secy. Deptt. Of Home, Lko. And Others

Counsel for Petitioner :- Santosh Kumar Tripathi

Counsel for Respondent :- G.A.

Hon'ble Dinesh Kumar Singh,J.

Hon'ble Syed Qamar Hasan Rizvi,J.

1. The present petition under Article 226 of the Constitution of India has been filed seeking a writ of mandamus commanding the respondents to remove the attachments over the shop and premises of House No. 686 (Old No. 5553), situated at Abadi Khasra/Gata No. 39, Akhtiyarpur, North Jahanabad, Kotwali City, Tehsil Sadar, District Raebareli.

2. By the order dated 18.09.2021, the property in question was attached under Sections 145(1)/146 of Cr.P.C. by the learned City Magistrate. This order dated 18.09.2021 came to be challenged in Criminal Revision No. 171 of 2021. The said criminal revision was allowed by the learned court of 1st Additional Sessions Judge, Raebareli by the order dated 24.01.2023 and set aside the order dated 18.09.2021 passed under Section 145(1) of Cr.P.C. by the learned City Magistrate. The matter was remanded back to the court of learned City Magistrate for deciding the same in accordance with law.

3. Despite the order dated 18.09.2021 passed by the City Magistrate having been quashed and the revision being allowed, the property in dispute was not released and, therefore, this writ petition came to be filed. This Court vide order dated 16.06.2023 directed the City Magistrate to remain present to explain that under what circumstances, the order of attachment could not be removed despite the order of attachment was quashed by the Revisional Court. In compliance of the said order dated 16.06.2023, the City Magistrate, Mr. Prakash Chandra is present in the Court. Learned City Magistrate, who is present in the Court, states that he had joined the post of City Magistrate, Raebareli only on 07.04.2023, thereafter, due to impending local body elections on 10.04.2023, the Model Code of Conduct came into force and he was busy till 13.05.2023. He had fixed several dates for deciding the matter but due to non

co-operation of one or other party, the case could not be decided. He further states that the case shall be decided within a period of one month and he will release the property forthwith.

4. Considering the aforesaid stand and undertaking of the learned Magistrate for releasing the property forthwith and deciding the matter within a period of one month, we finally **dispose of** this petition accordingly and direct the petitioner to co-operate in final conclusion of the proceedings within a period of one month. If the lawyers are abstaining from judicial work, the learned Magistrate may hear the petitioner and respondents in person and decide the case as directed by the revisional court.

(Syed Qamar Hasan Rizvi,J.) (Dinesh Kumar Singh,J.)

Order Date :- 21.6.2023

Abhishek Gupta