

Court No. - 17

Case :- WRIT - C No. - 8757 of 2023

Petitioner :- Sachin Rawat

Respondent :- State Of U.P. Thru. Prin. Secy. Deptt. Of Revenue And 3 Others

Counsel for Petitioner :- Charan Deep Singh Bedi, Mandeep Kumar Mishra, Prabhat

Counsel for Respondent :- C.S.C.

Hon'ble Alok Mathur, J.

1. Heard Sri Mandeep Kumar Mishra, learned counsel for the petitioner as well as learned Standing counsel for the respondents.

2. By means of the present writ petition the petitioner has challenged the order dated 16.8.2023 passed by District Magistrate, Lucknow in exercise of powers under Section 47 A of Indian Stamps Act, 1999 as well as recovery certificate dated 28.6.2023 issued by Tehsildar, Sadar, Lucknow for execution of the order passed by the District Magistrate, Lucknow.

3. It has been submitted by learned counsel for the petitioner that the order dated 16.8.2021 is ex-parte order and the petitioner was not aware of the proceedings of Indian Stamps Act pending before the District Magistrate, Lucknow. He submits that the petitioner came to know of the proceedings only when recovery notice issued by Tahsildar, Sadar, Lucknow was received by him. It is in aforesaid circumstances that a prayer has been made to set aside the said order.

4. Learned Standing counsel, on the other hand, submits that the petitioner has equally efficacious and alternate remedy by way of appeal under Section 56 of the Indian Stamps Act assailing the order of the District Magistrate. He further submits that the petitioner has also liberty to move application for interim relief for staying the recovery proceedings initiated against him.

5. At this stage, learned counsel for the petitioner submits that the petitioner is ready and willing to file appeal against the order of the District Magistrate.

6. In light of the above, considering the fact that the petitioner has equally efficacious remedy of appeal, this Court would not exercise its powers under Article 227 of the Constitution. Accordingly, the petitioner is relegated to the remedy of appeal

against the order of the District Magistrate but with regard to the recovery proceedings it is provided that in case the petitioner deposits the amount computed by the District Magistrate concerned, the further recovery proceedings shall remain stayed and the said amount shall be subject to decision of the appeal.

7. With aforesaid observations and directions the petition stands **disposed of**.

(Alok Mathur, J.)

Order Date :- 11.10.2023
RKM.