

Court No. - 8

Case :- WRIT - C No. - 8976 of 2023

Petitioner :- Akbari Begum @ Akbar And 3 Others

Respondent :- State Of U.P. Thru. Director-U.P. Local Bodies Directorate Lucknow And 6 Others

Counsel for Petitioner :- Santosh Kumar Bhatt

Counsel for Respondent :- C.S.C.,Krishana Kumar Singh,Shyam Mohan Pradhan

Hon'ble Pankaj Bhatia,J.

1. Heard Shri Santosh Kumar Bhatt, learned counsel for the petitioners, learned Standing Counsel for respondent no.1/State; Shri Krishna Kumar Singh, learned counsel for respondent nos.2 & 3 and Shri Shyam Mohan Pradhan, learned counsel appearing for respondent nos.4 to 7.

2. Present petition has been filed challenging the order dated 24.08.2023 whereby the appeal preferred by the petitioner challenging an order dated 09.09.2016 came to be dismissed as not maintainable.

The petitioner also challenges the order passed by CJM, Balrampur whereby in exercise of appellate powers under Section 160 of U.P. Municipality Act, the appeal was allowed and the matter was remanded.

3. As regards the challenge to the order dated 24.07.2023; while passing the said order, District Judge, Balrampur has held that the appeal filed against the order passed under Section 160 of U.P. Municipality Act is not maintainable and amenable to appellate jurisdiction. The same requires no interference as admittedly no appeal is prescribed against the decision passed on appeal under Section 160 of U.P. Municipality Act.

4. As regards the challenge to the order dated 09.09.2016; while allowing the appeal, the CJM has remanded the matter for passing a fresh decision after giving an opportunity of hearing.

5. It is proposed to be argued by counsel for the petitioner that while passing the appellate order on 09.09.2016, delay in filing the appeal was not condoned and thus, to that extent, the order becomes bad in law.

6. Be that as it may, the fact remains that the order dated 09.09.2016 only remanded the matter for passing a fresh order by the Nagar Palika Parishad after giving an opportunity of

hearing. No legal rights of the petitioner have been affected as the petitioner would also have an opportunity of presenting his case on remand as was directed by the CJM in the order dated 09.09.2016, as such, I am not inclined to exercise my jurisdiction under Article 226 of the Constitution of India.

7. The petition lacks merit and is accordingly ***dismissed.***

Order Date :- 16.10.2023
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