Court No. - 13
Case :- CRIMINAL MISC. WRIT PETITION No. - 8017 of 2023
Petitioner :- Kadir Beg
Respondent :- State Of U.P. Thru. Secy. Home, Lko And 3 Others
Counsel for Petitioner :- Vishwa Nath Singh
Counsel for Respondent :- G.A.

Hon'ble Karunesh Singh Pawar,J.

1.Heard Shri Vishwa Nath Singh, learned counsel for the petitioner as well as learned A.G.A. appearing for opposite party nos. 1 to 4 and perused the record.

2. The instant petition under Article 226 of the Constitution of India has been filed by the petitioner with the following prayers:-

"(i) Issue a writ, order or direction in the nature of Certiorari to quash the impugned order dated 19.09.2023 passed by the opposite party No. 3 i.c. District Magistrate, Bahraich in Case No. 1237/2022, Computerized Case No. D202208150001237, Under Section-3(1) U.P. Control of Goondas Act, 1970 as well as order dated 04.10.2023 passed by the opposite party No. 2 i.e. Commissioner, Devi Patan Mandal, Gonda in Case No. 1365/2023, Computerized Case No. C202308000001365, Under Section-6 of U.P. Goondas Act, 1970 (Kadir Beg Versus State of U.P.), contained as Annexure No. 1 & 2 to this writ petition.

(ii) Issue a writ, order or direction in the nature of MANDAMUS stay the operation and implementation of the order dated 04.10.2023 passed by the Commissioner, Devi Patan Mandal, Gonda as well as order dated 19.09.2023 passed by the District Magistrate, Bahraich, contained as Annexure No. 2 and 1 respectively to this writ petition.

(iii) Issue such other order or direction, which this Hon'ble Court may deem, fit and proper under the facts and circumstances of the case, in favour of the petitioner.

(iv) Allow the writ petition with cost.."

3.Learned counsel for the petitioner submits that the District Magistrate, Bahraich by passing an order dated 19.09.2023 without considering the facts and circumstances of the case had passed an externment order against the petitioner for 06 months. However, an appeal against the same was filed before the Commissioner, Devi Patan Mandal, Gonda under Section 6 of the Uttar Pradesh Control of Goondas Act, 1970, which has also been admitted for hearing. However, stay application which was moved by the petitioner for staying the operation of the order

dated 19.09.2023, has not been disposed of yet and is pending before the appellate court causing prejudice and grievance to the petitioner.

4. It is requested that though in the petition, relief with regard to the quashing of the impugned order dated 19.09.2023 has been claimed, the petitioner is confining his submission only to the tune that appropriate directions be given to the appellate court i.e. Commissioner, Devi Patan Mandal, Gonda to expeditiously dispose of the stay application moved by the petitioner before him to stay the operation of the order of the District Magistrate, Bahraich till the disposal of the appeal pending before the Commissioner, Devi Patan Mandal, Gonda.

5. Learned A.G.A. has objected to the submissions made by learned counsel for the petitioner moreso with regard to the prayer clause of the petition and submits that the prayer as claimed by the petitioner could not be granted as the appeal is still pending before the appellate authority.

6. Having heard learned counsel for the parties and having perused the record and keeping in view the fact that learned counsel for the petitioner has confined his submissions only to the tune that appropriate directions be given to the appellate authority i.e. Commissioner, Devi Patan Mandal, Gonda to pass appropriate orders with regard to stay application moved by the petitioner before the Commissioner, Devi Patan Mandal, Gonda, the instant petition is finally disposed of with the direction to the Commissioner, Devi Patan Mandal, Gonda to dispose of the stay application moved by the petitioner before him within 30 days from copy of this order is placed before him.

7. It is further provided that till 30 days from today or till disposal of the stay application of the appellant, whichever is earlier, the operation of the order dated 19.09.2023 shall remain in abeyance.

8. It is further submitted that if copy of this order is not filed by petitioner before the Commissioner Devi Patan Mandal Gonda within 10 days from today, the applicant will not get any benefit of this order.

Order Date :- 16.10.2023
R.C.

Digitally signed by :-
RAM CHANDER YADAV
High Court of Judicature at Allahabad,
Lucknow Bench