

Court No. - 3

Case :- WRIT - C No. - 9265 of 2023

Petitioner :- Smt. Rehana Parvin

Respondent :- State Of U.P. Thru. Prin. Secy. Deptt. Stamps
And Registration Civil Sectr. Lko. And Others

Counsel for Petitioner :- Tribhuvan Narai Singh

Counsel for Respondent :- C.S.C.

Hon'ble Vivek Chaudhary,J.

Hon'ble Manish Kumar,J.

Petitioner has approached this Court for a writ of mandamus commanding the Chief Controlling Revenue Authority, U.P. Lucknow or Additional District Magistrate (Finance and Revenue), Kheri to expeditiously decide its application filed by the petitioner on 3.8.2023 providing security under Section 56 (1) A second proviso of the Indian Stamp Act, 1899 (hereinafter referred to as the Act, 1899).

Facts of the case are that the case against the petitioner under Section 47 A of the Act, 1899 was decided against which petitioner filed an appeal before the respondent no. 2. In appeal, a stay order was granted on 22.06.2023 effective till 30.06.2023.

The Second proviso to Section 56 (1) A of the Act, 1899 provides that petitioner shall submit a security, in case the stay order is operative beyond the period of 30 days, before the Collector concerned. The said power of Collector in the present case is being exercised by the A.D.M. (F&R). Thus, petitioner has moved two applications before the respondent no.2 before whom the appeal is pending as well as the A.D.M. (F&R) providing that he is ready and willing to give a bank guarantee of the outstanding amount. Instead of passing any order on the applications, the respondent no.3 has proceeded to issue a recovery certificate against the petitioner.

Learned counsel for the petitioner submits that the same is an arbitrary exercise of power and since petitioner is ready and willing to provide a Bank Guarantee, which is as good as cash deposit, it was incumbent upon the respondent no. 3 to consider application of the petitioner before issuing any recovery certificate.

In the given facts and circumstances, respondent no.3 -District

Magistrate,Kheri is directed to consider the application of the petitioner providing to give Bank Guarantee of the outstanding amount and pass reasoned and speaking order on the same within a period of ten days.

Petitioner shall place a copy of this order before the respondent no.3 by day after tomorrow i.e. 21.10.2023.

Till the disposal of application of the petitioner, recovery from the petitioner shall remain stayed.

In view of the aforesaid, writ petition is disposed of.

(Manish Kumar, J.) (Vivek Chaudhary, J.)

Order Date :- 19.10.2023

Arjun/-