

Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 8386 of 2023

Petitioner :- Nazeer Ahmad

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

Counsel for Petitioner :- Saurabh Srivastava

Counsel for Respondent :- G.A.

Hon'ble Mrs. Sangeeta Chandra,J.

Hon'ble Narendra Kumar Johari,J.

1. Heard learned counsel for the petitioner and learned A.G.A. who appears on behalf of the State Respondents.

2. This petition has been filed with the following main prayers:-

"I. Issue a writ order or direction in the nature of certiorari to quash the impugned notice/order dated 29.06.2022 passed by opposite party no. 2 i.e. District Magistrate, District Raebareli by the impugned notice/order 29.06.2022 as well as against the proceeding of the attachment of the petitioner's house which is situated at the Village Kodra Paragna Rokha Tehsil Salon P.S. Nasirabad District-Raebareli Gata No. 277/2.658 Hec. Land in a very arbitrary manner by the opposite parties under section 14(1) of U.P. Gangster Act and impugned notice/order passed by the authorities concern is without providing any opportunity of hearing to the petitioner as contained in Annexure No. I to this writ petition.

II. Issue a writ order or direction in the nature of in the nature of mandamus thereby directing the opposite party no, 2 to 4 not to interfere with the peaceful possession of the petitioner over the said house situated at Village Kodra Paragna Rokha Tehsil Salon P.S. Nasirabad District- Raebareli Gata No. 277/2.658 Hec. Land without providing any opportunity of hearing to the petitioner during the pendency of the instant writ petition before this Hon'ble Court.

III. issue a writ order or direction in the nature of in the nature of mandamus thereby directing the opposite party no. 2 to 4 to open the seal of the petitioner's house situated at the Village Kodra Paragna Rokha Tehsil Salon P.S. Nasirabad District-Raebareli Gata No. 277/2.658 Hee. Land and further may

kindly be please to direct the concerning opposite parties to handover the petitioner's house in question and not to disturb the peaceful possession of petition, in the interest of justice."

3. It has been submitted by the learned counsel for the petitioner that the petitioner has been shown to be involved in only three cases.

4. It has also been stated that the house in question which has been directed to be seized by the impugned order has been shown to have been built in three year's time. It has been alleged that it has been constructed out of the proceeds of crime which is incorrect. The house in question has been in existence for a longtime, it is a unplastered/kacha house.

5. Learned A.G.A. for the State Respondents has pointed out that the order impugned in this petition has been passed under Section 14(1) of the U.P. Gangsters and Anti Social Activities (Prevention) Act, 1986 on 29.06.2022. The petitioner had statutory remedy of filing a representation/appeal under Section 15 of the U.P. Gangsters and Anti Social Activities (Prevention) Act, 1986, which he has not availed and he has approached this Court straightaway.

6. Learned counsel for the petitioner at this stage states that the petitioner has already made a representation dated 06.07.2022, a copy of which has been filed as annexure-15 to the writ petition. The said application has not yet been decided.

7. The writ petition is **disposed of** with a direction to the District Magistrate to decide the representation of the writ petitioner at the earliest within a period of six weeks from the date a copy of this order is produced before him.

Order Date :- 31.10.2023

Darpan Sharma