

Court No. - 13

Case :- MATTERS UNDER ARTICLE 227 No. - 5630 of 2023

Petitioner :- Mahendra And 2 Others

Respondent :- State Of U.P. Thru. Prin. Secy. Dep'tt. Of Home Lko. And 5 Others

Counsel for Petitioner :- Hari Shanker Tewari

Counsel for Respondent :- G.A.

Hon'ble Karunesh Singh Pawar,J.

Heard learned counsel for the petitioners and learned AGA for respondent no. 2.

Through this petition, the petitioners have prayed for the following relief:-

"(i) set aside the impugned order dated 5.10.2023 passed by the Sessions Judge, Sultanpur, as well as order dated 5.9.2023 passed by the learned Sub-Divisional Magistrate Kadipur, Sultanpur, as contained in Annexure No. 1&2 respectively to this petition.

(ii)"

Notice to respondent no. 3 to 6 are dispensed with in view of the proposed order.

Learned counsel for the petitioner after arguing for some time submits that SDM, Kadipur, Sultanpur is proceedings against them under Section 133 Cr.P.C. regarding a land about which already a civil suit is pending before the Civil Judge (Junior Division), Kadipur, Sultanpur and objection regarding maintainability of the proceedings under Section 133 Cr.P.C. before the SDM, which is on record as Annexure No. 8 to the petition, is pending since 30.05.2023 and till date the same has not been decided and without deciding objection, the SDM Kadipur, Sultanpur is in a hurry to decide the proceedings under Section 133 Cr.P.C.

Prayer of learned counsel for the petitioner is that first his objection regarding the maintainability of proceedings under Section 133 Cr.P.C. regarding the alleged dispute may be adjudicated and then the proceedings under Section 133 Cr.P.C. may be concluded.

Learned AGA has no objection to this innocuous prayer.

In view of the above and without entering into merits of the case, the petition is disposed of directing respondent no. 2 to adjudicate the objection filed by the petitioners on maintainability of the proceedings under Section 133 Cr.P.C. in accordance with law within a period of one month from the date of production of certified copy of this order and thereafter proceed to decide proceedings under Section 133 Cr.P.C.

Order Date :- 2.11.2023/R.C.