

Court No. - 1

Case :- SPECIAL APPEAL No. - 511 of 2023

Appellant :- Mohini Devi Alias Maina Devi

Respondent :- State Of U.P. Thru. Commissioner Rural Development U.P. Lucknow And Others

Counsel for Appellant :- Gyanendra Pathak, Adarsh Kumar Tripathi

Counsel for Respondent :- C.S.C., Richa Mishra

Hon'ble Attau Rahman Masoodi, J.

Hon'ble Om Prakash Shukla, J.

1. Heard learned Counsel for the appellant, Ms. Richa Mishra, learned Counsel, who has put in appearance on behalf of respondent no.6 and Shri Anand Prakash Singh, learned Standing Counsel for the State-respondents.

2. This *intra-court* appeal has been filed against the judgment/order dated 03.10.2023 passed on a Recall Application No.02 of 2023 filed by the respondent no.6 seeking recall of order dated 07.08.2023 whereby the Writ Court had decided Writ -A No.5699 of 2023 finally by issuing the following direction :-

"Considering innocuous prayer being made by learned counsel for petitioner and without entering into the merits of the case, opposite party No.4 i.e. Block Development Officer, Block Sakran, District Sitapur is directed to take a final decision with regard to aforesaid dispute within a period of eight weeks."

3. A recall application of the direction issued was filed on the ground that the applicant seeking recall of the order dated 07.08.2023 was not heard at the time when the aforesaid direction came to be issued. A rival interest was claimed by asserting that the applicant was also a legally wedded wife of Late Amar Nath Mishra. This Court had previously proceeded to pass the aforesaid direction on the premise that a succession certificate had been obtained by Mohini Devi @ Maina Devi,

but the grant of succession certificate in her favour was a subject matter of statutory appeal pending before the higher forum. It is in the light of this fact that the recall application was entertained and was finally disposed of by this Court in terms of the order dated 03.10.2023 impugned herein.

4. From a cumulative reading of the two orders, i.e. 07.08.2023 and 03.10.2023, it is gathered that the competent authority has been directed to take a decision after hearing both the parties. Any decision taken by the competent authority would be subject to the outcome of pending appeal.

5. The direction modified by this Court in terms of the order dated 03.10.20023, in our considered opinion, does not suffer from any illegality calling for any interference in exercise of appellate jurisdiction of this Court

6. The lower Appellate Court is directed to expedite the proceedings and decide the pending appeal at the earliest.

7. With the aforesaid direction, this petition stands **disposed of**.

(Om Prakash Shukla, J.) (Attai Rahman Masoodi, J.)

Order Date :- 22.11.2023

Anand Sri./-