

Court No. - 6

Case :- MATTERS UNDER ARTICLE 227 No. - 5797 of 2023

Petitioner :- Smt. Savitri Devi

Respondent :- State Of U.P. Thru. Collector, Distt. Faizabad And 31 Others

Counsel for Petitioner :- Upendra Prakash Pathak

Counsel for Respondent :- C.S.C.,Mohan Singh,Rajeev Narayan Pandey

Hon'ble Rajnish Kumar,J.

Heard Sri Sudeep Seth learned senior Advocate assisted by Sri Upendra Prakash Pathak learned counsel for the petitioner, learned Additional Chief Standing counsel for the State, Sri Rajeev Narayan Pandey learned counsel for the respondent no.2/caveator and Sri Pradeep Singh holding brief of Sri Mohan Singh learned counsel for the respondent nos.5 to 8.

Learned counsel for the respondent raised a preliminary objection that the petitioner has an alternative and statutory remedy of appeal under Order 43 Rule 1(r) C.P.C against the impugned order dated 04.10.2023.

Learned counsel for the petitioner does not dispute that the petitioner has an alternative and statutory remedy. However, he submits that the impugned order has been passed recording the wrong contention of the petitioner's counsel that he had given oral consent for disposal of the application 6C2, whereas no such consent was given. He further tries to argue that, in fact the application 6C2 was disposed of by means of the order dated 20.03.1990, therefore, the same could not have been decided again on an application for stay vacation moved by the respondents. However, learned counsel for the petitioner failed to show that the application was disposed of. It appears that the interim injunction was granted by means of the order dated 20.03.1990 in terms of the Order 39 Rule 1 C.P.C. The grounds raised by the petitioner in this petition can be taken and considered in the appeal.

In view of the above and availability of the alternative and statutory remedy available to the petitioner, this court is not inclined to entertain this petition.

The petition is, accordingly, **dismissed** on the ground of availability of alternative and statutory remedy.

(Rajnish Kumar,J.)

Order Date :- 9.11.2023/Harshita