

Court No. - 21

Case :- MATTERS UNDER ARTICLE 227 No. - 5898 of 2023

Petitioner :- Ram Dular

Respondent :- State Of U.P. Thru. District Magistrate,
Sultanpur And Others

Counsel for Petitioner :- Rajesh Kumar Shukla

Counsel for Respondent :- C.S.C.,Mohan Singh,Vijay
Bahadur Yadav

Hon'ble Syed Qamar Hasan Rizvi,J.

1. Heard Shri Rajesh Kumar Shukla, learned counsel for the petitioner and learned Standing Counsel appearing for the State-respondent no.1 & 2 and perused the material available on record.

2. The present petition has been filed with the following relief:-

"(i) To direct the Additional Commissioner (Judicial) Ayodhya Mandal Ayodhya to decide the interim relief application pending in appeal No.C202304000002545(Ram Dular versus Sita Devi and others) U/S 24(4) of Uttar Pradesh Revenue Code 2006, which is pending since 2023 as expeditious as possible or within a period as stipulated by this Hon'ble court.

(ii) To direct the concern authority to stop the illegal construction of the opp. party No. 3 to 9 during pendency of the stay application. pending with appeal No.C202304000002545(Ram Dular versus Sita Devi and others) U/S 24(4) of Uttar Pradesh Revenue Code 2006."

3. The submission of the learned counsel for the petitioner is that the appeal under Section 24(4) of U.P. Revenue Code, 2006, has been filed by the petitioner along with application for interim relief before the Additional Commissioner (Judicial), Ayodhya, Mandal Ayodhya but no order has been passed on his application for interim relief dated 06.11.2023. He contends that once the statutory appeal has been entertained by the appellate court, it is incumbent upon the appellate court to consider and pass order on the application for interim relief.

4. The Hon'ble Supreme Court in the case of **Mool Chand Yadav & another Vs. Raza Buland Sugar Co. Ltd. Rampur & others**, reported in **1982 (3) SCC 484**, has held as under:

"..... But judicial approach requires that during the pendency of the appeal the operation of an order having serious civil consequences must be suspended. Moreso, when appeal is admitted. Previous history of litigation cannot be overlooked."

5. This Court in the case of **Ali Sher Vs. State of U.P. through Collector Bijnor & others**; reported in **2007 (102) RD 498**, has held as under:

"It is well settled that once an appeal or revision is entertained by a higher Court against an order having civil consequences stay normally should be granted to avoid swinging pendulum unless the Court for the reasons to be recorded finds that there is no case for grant of stay as observed by the Hon'ble Apex Court in the case of Mool Chand v. Raza Buland Sugar Industries."

6. Para 458 of U.P. Revenue Court Manual provides as under:

"458. Speedy Disposal- (1) *The court shall endeavour to finally decide the suit within a period of one year from the date of institution of the suit and if the suit is not decided within the period aforesaid, the reason for the same shall be recorded.*

(2) The appellate or the revisional court shall endeavour to finally decide the appeal or revision, as the case may be, within a period of six months from the date of filing the appeal or revision and if the appeal or revision is not decided within the aforesaid period, the reason for the same shall be recorded."

7. There is a clear legislative mandate that if proceedings are not concluded within the period of time as provided under the aforesaid provision, reasons for the same shall be recorded.

8. Learned Standing Counsel submits that he has no objection to the extent that a direction is issued by this Court for expeditious disposal of the above mentioned appeal along with application for interim relief, within stipulated period as fixed by this Court.

9. In view of the nature of the order proposed to be passed, the service of notice upon the respondents no.3 to 10 is dispensed with.

10. Taking into consideration the facts and circumstances of the case, this Court is of the view that no useful purpose would be served in keeping this writ petition pending.

11. Accordingly, without advertent on merits of the case and with the consent of the parties, this Court deems it appropriate to finally dispose of the present writ petition, with a direction to the Additional Commissioner (Judicial), Ayodhya, Mandal Ayodhya (respondent No.2), before whom the Appeal No. C202304000002545 is pending for disposal, to decide the same strictly in accordance with law, by a reasoned and speaking order on merit, after affording opportunity of hearing to the parties concerned, expeditiously and preferably within a period of **six months** from the date of receipt of a certified copy of this order, unless there is any legal impediment, without granting any unnecessary adjournment to either of the parties.

12. It is further directed that the authority concerned shall consider and pass appropriate order on the petitioner's application for interim relief dated 06.11.2023, on its merit, strictly in accordance with law, on the next date fixed i.e. 05.12.2023 or within a period of one month thereafter.

13. With the aforesaid directions/observations, the present writ petition is **disposed of**.

Order Date :- 18.11.2023

-Amit K-