

Court No. - 18

Case :- WRIT - C No. - 10599 of 2023

Petitioner :- Munna

Respondent :- Commissioner Devi Patan Distt. Gonda And 13 Others

Counsel for Petitioner :- Girish Chandra Verma

Counsel for Respondent :- C.S.C., Pankaj Gupta

Hon'ble Shree Prakash Singh, J.

1. As notices to the private respondents are hereby dispensed with.

2. At the very outset, Sri Hemant Pandey, learned Standing counsel for the State has raised the preliminary objection and submitted that the order dated 05.08.2023 passed by the Sub-Divisional Officer in case no. 11704 of 2021 (Sahjad Ali and others verses Hasratan and others), under Section 116 of the Code, 2006, is not challenged by the petitioner at any forum though, the provision under section 207 of the Code, 2006 provides remedy of appeal. He added and has drawn attention towards the revision filed before the Commissioner, Devi Patan Mandal and added that the plaint of the revision itself is enough to show that the order dated 25.07.2023 passed by the Sub-Divisional Officer, under Section 117 of the Code, 2006, in case no. 8180 of 2022, has been challenged only and therefore, submission is that this petition is not maintainable on this ground alone and the order dated 05.08.2022 passed in case no. 11704 of 2021 has attained finality.

3. Learned counsel appearing for the petitioner could not rebut the aforesaid facts.

4. In view of the aforesaid submissions, the instant petition is

hereby by **disposed of** with liberty to the petitioner to approach the right forum while agitating correct remedy, in accordance with law.

5. The petitioner is further permitted to move delay condonation application along with the such case and if, such an application is filed, the same shall be considered and decided, in accordance with law.

6. It is further clarified that this Court did not make any interference in the order dated 25.07.2023 but it is provided that the revisional order shall be the subject matter of the order passed in appeal.

7. It is also clarified that any finding recorded in the order dated 25.07.2023 would have no bearing on the merits of the case before the Commissioner, if such is filed by the petitioner.

Order Date :- 6.12.2023
Mayank