

Court No. - 1

Case :- SPECIAL APPEAL No. - 540 of 2023

Appellant :- Mahendra Kumar

Respondent :- State Of U.P. Thru. Prin. Secy. Food And Civil Supplies U.P. Govt. Civil Sectt. Lko. And Others

Counsel for Appellant :- Vikram Dutt Pandey, Pankaj Gupta

Counsel for Respondent :- C.S.C.

Hon'ble Attau Rahman Masoodi, J.

Hon'ble Om Prakash Shukla, J.

1. Heard Shri Pankaj Gupta, learned counsel for the appellant and Shri Anil Kumar Singh Visen, learned Standing Counsel for State-respondents.

2. The present *intra-Court* appeal filed under Chapter VIII Rule 5 of Allahabad High Court Rules, 1952 (hereinafter referred to as "Rules, 1952") has arisen out of the judgment/order dated 30.11.2023 passed by the writ Court in Writ-C No.3407 of 2022.

3. Admittedly the proceedings before the writ Court arose out of an order passed by the Commissioner, Devi Patan Mandal, Gonda in exercise of the appellate jurisdiction as against the order passed by the prescribed authority. The subject matter of the appeal decided in the appellate proceedings was squarely within the domain of Essential Commodities Act, 1955 which is a central act.

4. Thus the exercise of appellate powers by an officer under

any U.P. or central Act once exercised by the appellate authority giving rise to a writ petition before this Court under Article 226/227 of the Constitution of India would not enable this Court to entertain an appeal under Chapter VIII Rule 5 of the Rules, 1952, in view of the settled position of law, as laid down in a Full Bench judgment of this Court in the case of **Sheet Gupta vs. State of U.P. and Others** reported in **(2010) 1 ADJ 1**.

5. In view of the settled position of law as mentioned above, the present appeal not being maintainable is, accordingly, **dismissed**.

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

Order Date :- 13.12.2023
Shubhankar