

**Court No. - 18**

**Case :-** WRIT - C No. - 11035 of 2023

**Petitioner :-** Kaushal Kishore

**Respondent :-** Commissioner, Devi Patan Mandal, Devipatan,  
District Gonda And Others

**Counsel for Petitioner :-** Karunakar Srivastava

**Counsel for Respondent :-** C.S.C.

**Hon'ble Shree Prakash Singh, J.**

1. Heard Shri Karunakar Srivastava, learned counsel for the petitioner and Shri Praful Kumar Yadav, Additional Chief Standing Counsel for the State.

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

*"(i) Issue a writ, order or direction in the nature of "Certiorari" to quash the order dated 07.07.20223 passed by opposite party no.1 in revision no. 792 of 2023 computerized no C20230800000792 filed by the petitioner under section 219 of U.P. Land Revenue Act, 1901, order dated 23.05.2023 as well as order dated 25.08.2022 passed by opposite party no. 2 contained as Annexure no. 1,2 and 3 to this writ petition."*

3. The counsel apperaing for the petitioner submits that vide order dated 25.04.2022, the appeal preferred by the private respondent was dismissed and while passing the order it has been recorded that the appeal is being dismissed in absence of any evidence. He added that the order was passed on merit and therefore, recall application was not maintainable. Second set of arguments of learned counsel for the petitioner is that the notice upon the private respondent is not sufficient and therefore, the order could not have been recalled and thus the order dated 11.08.2022 may be set aside.

4. On the other hand, the counsel appearing for the State has opposed the contention aforesaid and submitted that in fact while passing the order dated 25.04.2022, the appellate court

did not entered into the merit and therefore, the order dated 11.08.2022 has rightly been passed while recording that the notice is sufficient upon the private respondents. He also added that so far as the recall is concerned there is settled law that the liberal approach should be adopted as to adjudicate the matter on merits.

5. In view of the aforesaid submissions, this court does not find any merit hence, the instant petition is hereby **dismissed**, with liberty to petitioner to approach the court concerned.

**Order Date :- 18.12.2023**  
Mohd. Sharif