

Court No. - 18

Case :- WRIT - C No. - 11611 of 2023

Petitioner :- Harikesh Singh

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Revenue, Lucknow And Others

Counsel for Petitioner :- Somdutta Singh

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

Hon'ble Shree Prakash Singh, J.

1. Heard Shri Somdutta Singh, learned counsel for the petitioner, Shri Hemant Pandey, learned Standing Counsel for the State and perused the record.

2. By means of the present petition, the petitioner has assailed the order dated 06.04.2023 passed by respondent no.3 and 08.11.2023 passed by respondent no.2.

3. The contention of counsel for the petitioner is that though the appeal against the order under Section 34 of the Land Revenue Code, 2006 is admitted by the appellate authority but the order of the Tehsildar has not been stayed, which goes against the settled proposition of law. He submits that the authorities are going to comply with the order passed by the Tehsildar as the same was not stayed at the appellate level. Therefore, submission is that the order dated 06.04.2023 and the revisional order which was passed on 08.11.2023 may be set aside.

4. On the other hand, the counsel appearing for the State has vehemently objected the aforesaid contention and submitted that there is no erroneousness or perversity in the order passed by the revisional court as well as the appellate court and the instant petition is liable to be dismissed.

5. Considering the submissions of the learned counsel for the

parties and after perusal of the material placed on record, it transpires that the petitioner assailed the order passed by the Tehsildar by way of instituting an appeal wherein he has prayed for staying the order passed by the court below but the same was rejected vide order dated 06.04.2023, whereafter he moved a revision before the revisional court and that too was dismissed.

6. When this Court examined the aforesaid orders, in its facts and law, it transpires that it is settled law that if an appellate authority is admitted an appeal or suit, then the effect and operation of the order which is impugned in the appeal is to be stayed. In fact, in this matter, the appellate authority as well as the revisional authority has dismissed the interim relief application as well as the revision, respectively, in a cursory manner and that goes against the settled proposition of law.

7. Resultantly, the order of the revisional court dated 08.11.2023 as well as the part of the order dated 06.04.2023, by which, the interim relief has been rejected by the appellate court, are hereby set aside.

8. The appellate authority is directed to decide the appeal within period of six months after affording opportunity of hearing to all the parties concerned in accordance with law.

9. It is further provided that the parties are directed not to alienate the property, till the disposal of appeal.

10. With the aforesaid observation, the instant petition is hereby **disposed of.**

Order Date :- 22.12.2023
Mohd. Sharif