

Court No. - 16

Case :- CRIMINAL MISC. WRIT PETITION No. - 3458 of 2024

Petitioner :- Meraj Ahmad And 2 Others

Respondent :- State Of U.P. Thru. Prin. Secy. Deptt. Of Home Lko. And 4 Others

Counsel for Petitioner :- Awadhesh Kumar Srivastava, Sachindra Dwivedi

Counsel for Respondent :- G.A., Jaleel Ahmad

Hon'ble Shamim Ahmed, J.

This matter is taken up in the revised list on the mention-slip being made by learned counsel for the opp. party/caveator. The mention-slip is taken on record.

Notice of mention-slip has been duly received by learned counsel for the petitioners Sri Shachindra Dwivedi, however, he or someone else on his behalf is not present to argue the case, despite the court waiting for him for more than five minutes, hence, this court is left with no other option except to hear the case in absence of the learned counsel for the petitioner.

Heard learned counsel for the opp. party Nos. 2 to 5 as well as Miss. Ankita Tripathi, learned A.G.A. for the State and perused the record.

This writ petition has been filed with the following prayer:

"i. To issue a writ, order or direction in the nature of certiorari to set aside the impugned orders dated 10.04.2024 passed by Sessions Judge, Sultanpur, in Revision No. 137/2023, Meraj Ahmad and ors. Vs Smt. Najma Begam and another, and order dated 21.03.2023 passed by the Sub Divisional Magistrate, Musafirkhana, District Amethi, in Complaint Case No. 01282/2021 under Section 145, Cr.P.C., Meraj Ahmad and ors. Vs Smt. Najma Begam and another, contained as Annexure No. 1 & 2 to this writ petition.

ii. To issue a writ, order here by directing to the court concerned to pass the fresh appropriate order on the complaint of the petitioner looking in to the facts, and circumstance and evidence produced before him."

As per the averments made in the writ petition, the dispute is in respect of the land bearing Gata No. 410 Min. area 0.1250, situated at village- Madar Newajgarh, Police Station- Bazar shukul, Pargana- Jagdishpur, Tahsil- Musafirkhana District- Amethi. The petitioners claim to be the owners and in possession of the property and as the case has been set up, the opp. party Nos. 2 to 5 were interfering in possession of the petitioners over the said land, thus, in this regard the petitioners

had to move an application under Section 145 Cr.P.C before the S.D.M. concerned. In the proceedings in pursuance of the said application, the Police, after verification, found that the claim set up by the petitioners was not justified as their possession was not found on the said property and the possession was found of opp. party Nos. 2 to 5, thus, the application under Section 145 Cr.P.C. was rejected by the learned Sub Divisional Magistrate, District Amethi, bearing Case No. 01282 of 2021, vide order dated 21.03.2023.

Being aggrieved by order dated 21.03.2023, the petitioners preferred a criminal revision bearing No.137/2023 before the Session judge, Sultanpur. It is alleged in the instant writ petition that the learned Session Judge, Sultanpur, without considering the evidence on record, vide order dated 10.04.2023 rejected the criminal revision vide order dated 10.04.2024, thus, both these orders dated 21.03.2023 and 10.04.2024 are bad in the eyes of law, and these orders should be quashed.

Mr. Jalil Ahmed, learned counsel for the opp. party Nos. 2 to 5 as well as Miss Ankita Tripathi, learned A.G.A. for the State, submits that the order passed by the learned Magistrate dated 21.03.2023 was rightly passed, as the petitioners fail to show their possession over the property in dispute and they want to illegally encroach the property of the opp. party Nos. 2 to 5. The petitioners also fail to show any paper to the authorities concerned pertaining to the said property in their favour, thus, after considering the entire evidence on record and after confirming this fact that the property belongs to the opp. party Nos. 2 to 5, the Sub Divisional Magistrate rightly rejected the application of the petitioners under Section 145, Cr.P.C. against the petitioners vide order dated 21.03.2003, and the learned Sessions Judge also rejected the revision preferred against this order after considering the entire evidence on record vide order dated 10.04.2024, as the petitioners there also failed to demonstrate their possession and title over the property in issue, thus, no case is made out for interference by this court in the present writ petition and the present writ petition lacks merits and is liable to be dismissed as such.

After considering the arguments as advanced by the learned counsel for opp. party Nos. 2 to 5 as well as the learned A.G.A. Miss Ankita Tripathi and after perusal of the pleadings in the writ petition, this court is also satisfied that the impugned orders dated 10.04.2024 passed by the learned Sessions Judge in Criminal Revision No. 137 of 2023, Meraj Ahmad & ors. v. Smt. Najma Begam and anr., as well as the order dated 21.03.2023 passed by the learned Sub Divisional Magistrate, District Amethi, in Case No. 01282 of 2021, are perfectly just,

legal and valid orders, rightly passed after considering the entire evidence available before them on record. There is no any illegality or infirmity in these orders, warranting interference by this court, and the present writ petition lacs merits and deserves to be dismissed. The writ petition is accordingly **dismissed**.

(Shamim Ahmed, J.)

Order Date :- 12.8.2024
A.Nigam