

Court No. - 16

Case :- CRIMINAL MISC. WRIT PETITION No. - 5848 of 2024

Petitioner :- Smt. Rani Mayawati

Respondent :- State Of U.P Thru. Prin. Secy. Home Lko. And 3 Others

Counsel for Petitioner :- Bhanu Pratap Mishra, Sarvesh Tripathi

Counsel for Respondent :- G.A., Amit Singh

Hon'ble Shamim Ahmed, J.

Heard Sri Bhanu Pratap Mishra, learned counsel for the petitioner, Sri Rajiv Kumar Verma, learned A.G.A.-I for the State Opposite Party Nos.1 to 3 and Sri Amit Singh, learned counsel for the opposite party no.4 as well as perused the record.

The instant writ petition has been filed seeking following main reliefs:-

"i. Issue a writ order or direction in the nature of certiorari quashing the impugned order dated 14.05.2024 passed by learned Sessions Judge, Faizabad (Ayodhya) as well as impugned order dated 14.03.2024 passed by learned City Magistrate, Ayodhya (Faizabad), as contained in Annexure No.2 and 3 to this writ petition.

ii. Issue a writ order or direction in the nature of mandamus commanding the opposite parties No.2 and 3 to restore possession of the petitioner over the old House No.667 (5/2/43), new number (5/2/296), situated at Nazul No.1333 Chak No.7 Mohalla Sahebganj, Pargana Haveli Avadh, P.S. Kotwali Nagar, City Tehsil and District Ayodhya, forthwith."

Learned counsel for the petitioner submits that on 28.01.2023, the police of Police Station Kotwali Nagar, District Ayodhya submitted a false report against the petitioner. Thereafter, the opposite party no.2 i.e. City Magistrate, Ayodhya, on the basis of aforesaid report dated 28.01.2023 initiated the proceedings under Section 145 Cr.P.C. against the petitioner bearing Case No.724 of 2023, wherein the learned Magistrate vide order dated 27.03.2023 ordered to attach the house in question till decision taken by the competent court of law. Being aggrieved by the order dated 27.03.2023, the petitioner preferred a Criminal Revision before the learned Sessions Judge, Faizabad (Ayodhya) which was allowed by the learned Additional Sessions Judge, Court No.3, Faizabad vide order dated

07.07.2023 and the order dated 27.03.2023 was set aside, wherein parties were directed to appear before the learned City Magistrate for contesting the proceedings.

He further submits that a civil dispute bearing Original Suit No.196 of 2008 has already been going on between the parties wherein an ad-interim order dated 26.04.2010 for maintaining status quo has already been passed.

He further submits that on 14.03.2024, the opposite party no.2 passed the impugned order in Case No.724/2023, under Section 145 Cr.P.C. without considering the reply submitted by the petitioner in a very mechanical manner.

He further submits that being aggrieved, the petitioner preferred a Criminal Revision No.54 of 2024 before the learned Sessions Judge, Ayodhya (Faizabad), which was dismissed by the learned revisional court on 14.05.2024 without considering the facts and circumstances of the case and the order dated 14.03.2024 was upheld. He further submits that aggrieved by both the orders, the present writ petition has been filed.

He further submits that the petitioner has not done any encroachment and the matter is purely civil in nature and both the orders have been passed without considering the evidence on record and no encroachment was ever made by the petitioner on the land in question.

On the other hand, learned A.G.A.-I for the State opposed the entire arguments as advanced by learned counsel for the petitioner and submits that on the basis of police report, the impugned order dated 14.03.2024 was passed by the learned City Magistrate, Ayodhya. He further submits that even the learned Revisional Court has also dismissed the criminal revision of the petitioner on 14.05.2024, which was filed against the order dated 14.03.2024. Thus, he submits that it is crystal clear that the petitioner has encroached the land in question and the impugned order passed by the opposite party no.2 i.e. City Magistrate, Ayodhya as well as the order passed by learned Sessions Judge, Ayodhya (Faizabad) have been correctly passed and there is no illegality or perversity in the aforesaid orders, therefore, there is no need of interference by this Court and the instant writ petition is liable to be dismissed.

He further submits that it is a summary proceedings and if the petitioner claims that he is the owner of the property and his name is recorded in the revenue record and some persons are encroaching the property, then he has a remedy to approach the competent civil court for adjudicating his right and title over the

property.

After considering the arguments as advanced by learned counsel for the respective parties as well as after perusal of records, this Court is of the view that the order dated 14.03.2024 passed by the opposite party no.2 i.e. City Magistrate, Ayodhya as well as order dated 14.05.2024 passed by learned Sessions Judge, Ayodhya (Faizabad) are just and proper as the same have been passed after considering the police report and the entire evidence available on record. Thus, this Court does not find any justification to quash the impugned orders under challenge in this writ petition.

Accordingly, the instant writ petition is **dismissed** with liberty to the petitioner to approach the competent civil court for adjudicating his right and title over the property.

Order Date :- 13.8.2024

Saurabh