

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.5404 OF 2024
(Arising out of S.L.P.(Criminal) No.2020 of 2023)

ABHAY PRATAP SINGH

... APPELLANT(S)

VS.

STATE OF U.P. & ORS.

... RESPONDENT(S)

O R D E R

Leave granted.

Heard the learned counsel appearing for the parties.

A Writ Petition was filed by respondent No.15 on the criminal side under Article 226 of the Constitution of India. The prayers in the Writ Petition are on pages 91 and 92 which read thus:

"(i) to issue a writ, order or direction of or in the nature of mandamus commanding the opposite parties nos.1 to 9 to protect the life, liberty and property of the petitioner and his members of family;

(ii) to issue a writ, order or direction of or in the nature of mandamus commanding the opposite parties nos. 1 to 9 to ensure smooth running of business of petitioner's fodder-shop;

(iii) to issue a writ or direction in nature of mandamus by directing the opposite parties/competent authority for registration of the First Information Report on the application sent on 09.08.2022 to them as per the mandate of the Hon'ble Supreme Court in the case of Lalita Kumari Vs. State of U.P. and others reported in 214 (2) SCC 1, and investigate the case in free and fair manner.

(iv) to issue writ in the nature of mandamus, directing the respondents to invoke proceedings under U.P.Gangster and Anti-Social (Prevention) Act, 1986 against the private respondents who in grab of Advocates committing organized crime and threatening the lives and properties of the citizens in a routine manner with impunity with the help of unscrupulous Police Officers of the Lucknow Police Commissionerate.

(v) to issue a writ in the nature of mandamus commanding the respondent nos.1, 2 ad 3 to conduct a high-level enquiry against the police officers who are involved in facilitating illegal grabbing of the properties in the present case;

(vi) to issue a writ, order or direction of or in the nature of mandamus commanding the opposite parties to pay the adequate compensation as deemed proper in the facts and circumstances of this case by this Hon'ble Court;

(vii) to issue any other order or direction which this Hon'ble Court deems fits and proper in the circumstances of the case;

(viii) to award the cost of the present writ petition."

By the impugned order which is an interim order, the High directed that the appellant should be dispossessed from the property subject matter of the Writ Petition and respondent No.15 shall be placed in possession. This action was ordered to be taken by the Deputy Commissioner of Police, Central Zone, Lucknow, Uttar Pradesh. The said order has been implemented.

A perusal of the impugned order shows that a report of the Deputy Commissioner of Police, Central Zone, Lucknow, Uttar Pradesh was called for and on the basis of the said report, by passing the impugned interim order, the appellant was ordered to be dispossessed. We find from the writ petition filed by respondent No.15 that there was no prayer for dispossession of the appellant.

In our view, in writ jurisdiction under Article 226 of the Constitution of India, by an interim order, the appellant could not have been dispossessed. It is an admitted position that after the impugned order was passed, respondent No.15 has filed a declaratory suit.

The contention of the learned senior counsel appearing for the appellant is that notwithstanding the order of *status quo* passed by this Court on 7th February, 2023, respondent No.15 has altered the *status quo* and has carried out construction. Dispossession of the appellant by an interim order in a petition under Article 226 of the Constitution of India wherein there was no prayer for dispossession cannot be countenanced. Therefore, we set aside the impugned order dated 28th September, 2022.

We direct the Deputy Commissioner of Police, Central Zone, Lucknow, Uttar Pradesh to take possession of the subject property immediately on expiry of a period of four weeks from today and hand over the possession thereof to the appellant.

We permit respondent No.15 to amend his pending suit and incorporate a prayer therein for a decree for possession in the suit. We also permit respondent No.15 to apply for appropriate interim relief in respect of the subject property in the suit.

The order of *status quo* passed by this Court on 7th February, 2023 will continue to operate till the Deputy Commissioner of Police, Central Zone, Lucknow, Uttar Pradesh takes over possession from respondent No.15.

We direct that after being put in possession, even the appellant will maintain *status quo* in all respects in respect of the property for a period of three months from the date on which he is placed in possession, to enable respondent No.15 to amend the plaint and to apply for appropriate interim relief. The prayer for interim relief which may be made by respondent No.15 in the suit shall be decided on its own merits without being influenced by the order of *status quo* passed by this Court.

We make it clear that we have made no adjudication on the issue of title and other issues which are subject matter of the pending suit.

The appeal is accordingly allowed on the above terms.

.....J.
(ABHAY S.OKA)

.....J.
(AUGUSTINE GEORGE MASIH)

NEW DELHI;
December 17, 2024.

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (CrI.) No(s). 2020/2023

[Arising out of impugned final judgment and order dated 28-09-2022
in CRMWP No. 5879/2022 passed by the High Court of Judicature at
Allahabad, Lucknow Bench]

ABHAY PRATAP SINGH

Petitioner(s)

VERSUS

STATE OF U.P. & ORS.

Respondent(s)

(IA No. 22721/2023 - EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT

IA No. 22717/2023 - EXEMPTION FROM FILING O.T.)

Date : 17-12-2024 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ABHAY S. OKA

HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

For Petitioner(s)

Mr. Pradeep Kant, Sr. Adv.
Mr. Rohit Kumar Singh, AOR
Mr. Shubham Kumar, Adv.
Mr. Ketan Priyadarshee, Adv.
Ms. Vidushi Srivastava, Adv.

For Respondent(s)

Mr. Shaurya Sahay, AOR
Mr. Divyanshu Sahay, Adv.
Mr. Aditya Kumar, Adv.Ms. Vanshaja Shukla, AOR
Mr. Rishad Murtaza, Adv.
Ms. Ankeeta Appanna, Adv.

UPON hearing the counsel the Court made the following

O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.

Pending applications also stand disposed of.

(ANITA MALHOTRA)
AR-CUM-PS(AVGV RAMU)
COURT MASTER

(Signed order is placed on the file.)