<u>**Court No. - 9**</u>
Case :- CRIMINAL MISC. WRIT PETITION No. - 1148 of 2023
Petitioner :- Arif Anwar Hashmi And Others
Respondent :- State Of U.P. Thru. Prin. Secy. Home Lko. And Another
Counsel for Petitioner :- Manoj Kumar Misra
Counsel for Respondent :- G.A.

<u>**Hon'ble Devendra Kumar Upadhyaya,J.**</u>
<u>**Hon'ble Narendra Kumar Johari,J.**</u>

The facts of this case present before us very disturbing facts. It appears that certain properties were attached under section 14(1) of U.P. Gangsters and Anti-Social Activities (Prevention) Act, 1986, however, the special court constituted under the Gangsters Act, passed an order on 23.12.2022 to release the said property and despite the said order passed by the special court having been intimated to the District Magistrate concerned on 04.01.2023, till date, the properties have actually not been released in favour of the petitioners.

We have been informed that challenging the order passed by the special court, an appeal has been preferred, however, on an enquiry it has been revealed that the appellate authority/court has not passed any stay order. In absence of any stay order passed by the appellate authority/court, the District Magistrate was under legal duty to have released the properties in favour of the petitioners in compliance of the order passed by the special court on 23.12.2022.

Retention of property, once an order of release has been communicated to the District Magistrate, cannot be appreciated and such retention would mean violation of Article 300-A of the Constitution of India unless.

We direct that the properties belonging to the petitioners shall be released in their favour physically pursuant to the order dated 23.12.2022 passed by the special court, failing which, the District Magistrate shall show cause by the next date of listing.

List this case on 15.02.2023.

This order shall be communicated by the learned A.G.A. to the District Magistrate concerned forthwith without waiting for its certified copy.

Order Date :- 9.2.2023
akhilesh/