

Court No. - 4

Case :- MATTERS UNDER ARTICLE 227 No. - 3873 of 2023

Petitioner :- Satyapal

Respondent :- Tejpal And 2 Others

Counsel for Petitioner :- Shyam Shankar Mishra

Counsel for Respondent :- Ritesh Upadhyay

Hon'ble Prakash Padia,J.

1. The petitioner has preferred the present petition with the following prayer:-

"(I) Stay the proceeding of the JSCC Suit No.05 of 2016 (Tejpal and others vs. Satyapal) filed showing a tenancy to the Defendant/petitioner, till the disposal of the Civil Suit No.234 of 2019 (Satyapal Vs. Tejpal and others) filed suit for the declaration of the title, pending in the court of Small Causes Court/Civil Judge (S.D.), Baghpat.

(II) Any, other writ, order or direction as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."

2. Facts in brief as contained in the present petition are that in the years 2015, a case of tendency was filed by the plaintiffs- respondents against the defendant- petitioner in order to grab the house of the defendant- petitioner. The said case was numbered as JSCC Suit No. 05 of 2016 (Tejpal and others vs. Satyapal). After the defendant- petitioner came to know regarding filing of the aforesaid suit, he filed a suit for adverse possession, the suit was numbered as Original Suit No. 234 of 2019 (Satyapal Vs. Tejpal and others). In the suit filed by the plaintiffs- respondents being JSCC Suit No. 05 of 2016, an application under Section 23 of the Provincial Small Cause Courts Act, 1887 was filed by the present petitioner on 15.7.2023. The same was rejected by the Additional Civil Judge, (S.D.) Baghpat vide order dated 28.9.2019. It is stated in paragraph no. 12 that in his suit i.e. Original Suit No. 234 of 2019, an application being Paper No.44-C under Section 4-A C.P.C. was filed. By the said application, a prayer has been made to connect both the suits namely, JSCC Suit No.05 of 2016 and Original Suit No. 234 of 2019. The aforesaid application was also rejected by the Civil Judge, (S.D.) Baghpat vide order dated 20.11.2022.

3. Aggrieved against the aforesaid, the defendant- petitioner has filed a revision being Revision No.29 of 2022 (Satyapal vs. Tejpal and others), which was also rejected by the revisional court vide order dated 16.3.2023.

4. It is admitted between the parties that the order dated 16.3.2023 has become final between the parties and the same has not yet been challenged before any other

forum.

5. After the aforesaid order was passed, the present petition has been filed by the petitioner on the basis of the documents available to the petitioner with the prayer that the proceedings of the JSCC Suit No. 05 of 2016 be stayed till the disposal of the aforesaid suit i.e. Original Suit No. 234 of 2019.

6. Heard Sri Shyam Shankar Mishra, learned counsel for the petitioner and Sri Ritesh Upadhyay, learned counsel for respondents.

7. After going through the records it transpires that earlier an application was filed under Section 23 of the Provincial Small Cause Courts Act, 1887. After the aforesaid application was rejected, another application being Paper No.44-C under Section 4-A C.P.C. The said application was also rejected. After rejection of both the applications, the present petition has been filed with the prayer to stay the proceedings of SCC Suit No. 05 of 2016 pending in the court of Small Causes Court/Civil Judge (S.D.), Baghpat till the disposal of Original Suit No.234 of 2019.

8. From the perusal of the fact as stated above, it is clear that earlier the applications were filed for the same effect and after rejection of the same, the present petition has been filed. Nothing has been stated in the entire petition nor any arguments has been advanced that whether the order passed rejecting the aforesaid applications were challenged by the petitioner before any forum or nor.

9. In this view of the matter, this Court of this opinion that no relief could be granted to the petitioner as prayed for in the present petition. The petition is devoid of merits and is accordingly dismissed.

Order Date :- 4.12.2023

S.K.