

Court No. - 1

Case :- MATTERS UNDER ARTICLE 227 No. - 7142 of 2023

Petitioner :- Atar Singh

Respondent :- Gokaran Singh

Counsel for Petitioner :- Satya Prakash Gupta, Jai Prakash Gupta

Hon'ble Jayant Banerji, J.

1. Heard Sri Satya Prakash Gupta, learned counsel for the petitioner

2. This petition has been filed seeking the following relief:

"A. Issue an order or direction to the respondent that he may be restrained to take possession of land situated in Khasra No. 379 area .250 hectare situated in village Hari Nagla Pargana, Tehsil and District Budaun till the disposal of stay application in civil appeal no. 8/23 pending before District Judge, Budaun.

B. Issue an order or direction to district Judge Budaun for disposal of stay application in civil appeal no. 8 /2023 date fixed on 5.7.2023 or within stipulated time."

3. Learned counsel for the petitioner states that he is pressing prayer no. 'B' only.

4. It appears that the petitioner is defendant in O.S. No. 18 of 2007 (Gokaran Singh Vs. Atar Singh and others) that was decreed pursuant to a judgment and order dated 27.3.2023, passed by 3rd Additional Civil Judge (Junior Division), Budaun. Thereafter, a civil appeal was filed against the aforesaid decree by the petitioner that is stated to have been registered as Civil Appeal No. 8 of 2023 in the court of District Judge, Budaun.

5. The contention of the learned counsel for the petitioner is that by an order dated 21.4.2023, the District Judge has admitted the appeal. However, the application for stay, despite an objection of the respondent being on record, is not being decided.

6. The contention of the learned counsel for the petitioner is that once an appeal is admitted, the stay application ought to be considered expeditiously. It is stated by the learned counsel that under the garb of aforesaid decree passed in the aforesaid civil suit, the plaintiff have initiated proceedings under Section 107/116 and Section 151 Cr.P.C.

7. In view of the facts and circumstances of the present case, this petition is **disposed of** with a request to the District Judge or the court which is in seisin of the appeal to proceed to consider the application for stay moved by the petitioner-appellant/defendant in the aforesaid first appeal, expeditiously and without granting any unnecessary adjournment provided there is no legal impediment.

Order Date :- 31.10.2023

sfa/

(Jayant Banerji, J)