

Court No. - 1

Case :- MATTERS UNDER ARTICLE 227 No. - 7364 of 2023

Petitioner :- Ram Chandra And Another

Respondent :- Subhash Chandra And 3 Others

Counsel for Petitioner :- Jitendra Kumar

Hon'ble Jayant Banerji,J.

1. Heard learned counsel for the petitioners.
2. Supplementary affidavit filed today is taken on record. By means of this supplementary affidavit, the learned counsel has enclosed a copy of the report dated 01.07.2023 of the court bailiff, who was issued a commission by the trial court to make a spot inspection.
3. This petition has been filed seeking the following reliefs:-
 - "a). Set aside the impugned order dated 29.05.2023 passed by the Civil Judge, (Jr. Div.) City, Jaunpur (Annexure -'1' to this petition) so far as interim relief has been refused in O.S. No.932/2023 (Ram Chandra & another Vs. Subhash Chandra & others);
 - b) Issue a suitable order or direction to the defendants-respondents by restraining the defendants-respondents from interfering in the peaceful possession and use of the plaintiffs-petitioners in their share in the suit property;
 - c) Issue a suitable order or direction to the defendants-respondents by restraining them from raising new construction and also not to damage the standing construction upon the suit property till the disposal of temporary injunction application (Paper No.6C) in O.S. No.932/2023 (Ram Chandra & another Vs. Subhash Chandra & others) pending in the Court of Civil Judge, (Jr. Div.) City, Jaunpur;
 - d) Issue a suitable order or direction to the Civil Judge, (Jr. Div.) City, Jaunpur to decide the Temporary Injunction Application (Paper No.6C) in O.S. No.932/2023 (Ram Chandra & another Vs. Subhash Chandra & others) pending before him within stipulated time as directed by this Hon'ble Court;
 - (e) Issue any other suitable order or direction as this Hon'ble Court may deem fit and proper in the circumstances of the case to meet with the ends of justice and fair play.

(f) Award cost of this petition to the plaintiffs-petitioners."

4. It appears that Original Suit No.932 of 2023 has been filed by the plaintiff-petitioners seeking a decree of permanent injunction and for partition of the suit property, which is stated to be abadi. By the impugned order dated 29.05.2023, the consideration of the application for temporary injunction has been deferred and notices were directed to be issued to the defendants.

5. It is the discretion of the trial court to see whether any *ex-parte* injunction is required in the facts and circumstances of the case existing before the trial court. Moreover, the report of the court bailiff is to be considered by the trial court at the appropriate stage of consideration of either of the application for temporary injunction or of the suit. Interference in the matter is, therefore, declined.

6. As far as the relief seeking a direction to decide the temporary injunction application 6C is concerned, it is left open for the petitioners to move an application before the trial court seeking expeditious consideration of the application 6C. If such an application is filed, the same would be considered by the trial court expeditiously.

7. The petition is, accordingly, **disposed of**.

Order Date :- 7.11.2023
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(Jayant Banerji, J.)