

Court No. - 1

Case :- MATTERS UNDER ARTICLE 227 No. - 7357 of 2023

Petitioner :- Shyam Bihari Yadav And Another

Respondent :- Ram Vishwas And Another

Counsel for Petitioner :- Ashok Kumar Yadav

Hon'ble Jayant Banerji, J.

Heard Mr. A.K. Yadav, learned counsel for the petitioners.

This petition has been filed seeking the following relief:-

"(i) to issue direction directing the learned Civil Judge (Senior Division), Court No. 15, Deoria to decide the Original Suit No. 352 of 2004 (Shyam Bihari Vs. Ram Vishwash) expeditiously as early as possible within stipulated time fixed by this Hon'ble court."

It appears that Original Suit No. 352 of 2004 was filed by the plaintiff-petitioners seeking a relief of permanent injunction with regard to the suit property. It appears from perusal of the order sheet that has been enclosed as Annexure no. 3 to this petition that on 1.10.2008, Misc. Case No. 155 of 2008 (Ram Vishwas Vs. Shyam Bihari) was filed in the court of Civil Judge (Senior Division), Court No. 18, Deoria pursuant to an application purportedly filed by the defendants under Order 9 Rule 13 of the Code of Civil Procedure. Neither is there any averment in the petition nor is it reflected in the certified copy of the order sheet as to whether Misc. Case No. 155 of 2008 is pending. It is noted that after the order dated 27.8.2016 appearing in certified copy of the order sheet at page 54 of the petition, the order on page 55 of the petition starts from 21.4.2022 which appears to be of Original Suit No. 352 of 2004 (Shyam Bihari Vs. Ram Vishwas). The order sheet of the intervening period has evidently not been filed.

The counsel for the petitioners has not been able to point out any averment in this petition as to when Misc. Case No. 155 of 2008 was allowed. This is a vague petition.

Accordingly, interference is declined and the petition is **dismissed**.

The cost are not being imposed in the matter because of the apology tendered by the counsel for the petitioner.

Registrar (Compliance) is required to send a copy of this petition to the court concerned within fifteen days.

Order Date :- 7.11.2023sfa/

(Jayant Banerji, J)

