

Court No. - 81

Case :- MATTERS UNDER ARTICLE 227 No. - 7612 of 2023

Petitioner :- Devmitra Garg

Respondent :- State Of U.P. And 8 Others

Counsel for Petitioner :- Manoj Kumar Mishra, V.R. Tiwari

Counsel for Respondent :- G.A., Rizwan Ullah Siddiqui

Hon'ble Mrs. Jyotsna Sharma, J.

1. Case called out in the revised list. None responds for the petitioner. Even none responds for the private respondents, though the cause list shows name of Sri Rizwan Ullah Siddiqui, as counsel for the private respondents.

2. The office report shows that the notices have been duly served on all the private respondents.

3. Heard Sri R.K. Verma, learned AGA for the State.

4. This petition under Article 227 of the Constitution of India has been filed challenging the order dated 03.03.2022 whereby the application moved under section 156(3) Cr.P.C. by the petitioner was dismissed, as well as the order dated 01.04.2023 passed in Criminal Revision no. 96 of 2022 (Deomitra Garg vs. State and Others) whereby the order of the trial court was affirmed.

5. I went through the papers on record. The petitioner filed an application under section 156(3) Cr.P.C. with the allegations in brief that the petitioner has been doing his business at a place, possession over which was confirmed in a litigation which went up to the High Court. The accused persons in collusion with each other, have been encroaching over the land which is a pathway going towards his shop. Therefore he moved applications before the District Magistrate for removing the encroachments. The accused persons have been harassing him in different manner, therefore, he tried to raise a wall for protection of his place of business but the accused persons came over, encircled him and threatened him with his life. The learned trial court heard the applicant and returned a conclusion that the dispute is essentially civil in nature and therefore dismissed the application moved under section 156(3) Cr.P.C. The applicant preferred a revision. The revisional court, after hearing both the sides, found no good reason to interfere in the order. The learned revisional court relied upon the judgment given by the Supreme Court in **Prof. R.K. Vijayasathay vs. Sudha Seetharam, 2019 SCC Online SC 208; Amit Kapoor vs. Ramesh Chander (2012) 9 SCC 460; Vinay Tyagi vs. Irshad Ali, (2013) 5 SCC 762 and Shamima Farooqhi vs. Shahid Khan (2015) 5 SCC 705**. The revisional court agreed with the opinion of the trial court that prima facie it was a civil dispute which has been given cloak of criminality. Finding no illegality or irregularity in the order, dismissed the revision.

6. I went through all the material on record. The petitioner has failed to show any good reason for exercise of powers under Article 227 of the Constitution. The power under Article 227 of the Constitution is definitely supervisory in nature, but it should be exercised sparingly and in appropriate cases, only to prevent miscarriage of justice or flagrant violation of law.

7. Exercise of this power and interfering with the orders of the courts or tribunals is restricted to cases of serious dereliction of duty and flagrant violation of fundamental principles of law or justice, where if the High Court does not interfere, a grave injustice remains uncorrected.

8. In my view, the petition lacks merit and is therefore **dismissed**.