

Court No. - 1

Case :- MATTERS UNDER ARTICLE 227 No. - 9486 of 2023

Petitioner :- Ajay Kumar Srivastava

Respondent :- Suresh Kumar Srivastava

Counsel for Petitioner :- Keshav Kumar Srivastava

Hon'ble Jayant Banerji, J.

Heard Sri Varchasva Dwivedi (Advocae Roll No. A/V 0246/2023) holding brief of Sri Keshav Kumar Srivastava, learned counsel for the petitioner.

This petition has been filed seeking the following relief:

"I. Issue a direction to the concerned court to decide the Suit No. 871 of 2022 (Suresh Kumar Srivastava Versus Ajay Kumar Srivastava) pending before Civil Judge (Jr. Div). Allahabad expeditiously within a stipulated period fixed by this Hon'ble Court."

It appears that the plaintiff-respondent instituted a suit seeking permanent injunction. An ad-interim injunction was granted by the trial court by means of an order dated 1.7.2022. A perusal of the certified copy of the order sheet, in which last order displayed is 24.2.2023 reflects that the return of summons is awaited. It is stated in paragraph no. 7 of this petition that the defendant-petitioner is presented himself before the trial court and has filed a counter affidavit in the aforesaid suit.

A perusal of the array of parties in the plaint that appears at page 11 reflects that other than the defendant-petitioner, there are four other defendants. It is not reflected in this petition whether all the defendants have put in appearance in the trial court or summons has been duly served on the defendants.

Under the circumstances, no interference is called for in this petition. Even otherwise, the plaint is of the year 2022 and without the issues being framed and evidence being led at the appropriate stages, no such direction can be issued in the facts and circumstances as existing in the present case.

This petition is, accordingly, **dismissed**.

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

Order Date :- 30.10.2023

sfa/

(Jayant Banerji, J)