

Court No. - 1

Case :- MATTERS UNDER ARTICLE 227 No. - 8885 of 2023

Petitioner :- Vasudev Sharma And Another

Respondent :- Sri Bhupendra Singh And 4 Others

Counsel for Petitioner :- Ashutosh Kumar Mishra

Hon'ble Jayant Banerji,J.

1. Heard Shri Manish Kumar Dwivedi (AOR No.A/M 0896/2013) holding brief of Shri Ashutosh Kumar Mishra, learned Advocate for the petitioners.

2. This petition has been filed seeking a direction to the Civil Judge (Senior Division), Kule, Aligarh to decide the application dated 20.07.2017 bearing paper no.62-C under Order 39 Rules 1 and 2 CPC in Original Suit No.180 of 2004 (Pramod Kumar Vs. Ravendra Pal & Ors.) expeditiously.

3. It is the contention of the learned counsel for the petitioners that a suit for permanent injunction was filed against the defendant-respondents by the petitioners in respect of bhumidhai land no.1341 area 1 bigha, 10 biswas situate at Mohalla Shyam Nagar, City Koil, Aligarh and not to interfere in the making of constructions on that land or in the hotel. It is stated that since the defendant nos.1 and 2 started making interference, then the petitioners had no option but to file an application dated 20.07.2017 under Order 39 Rules 1 and 2 CPC seeking to restrain them from making any constructions during pendency of the suit.

4. A perusal of the order-sheet of the trial court reflects that on 21.08.2015, on the basis of a compromise entered into between the plaintiff and the defendant nos.1 and 2, which compromise was

paper no.50-A1, the suit was decreed against them and it was directed to proceed against the defendant no.3. It was further ordered that the compromise document would be part of the final decree made.

5. When queried, the learned counsel for the petitioners stated that the order dated 21.08.2015 has become final. Therefore, the aforesaid application paper no.62-C seeking temporary injunction against the defendant nos.1 and 2 is misconceived.

6. No interference is called for in this petition. It is, accordingly, **dismissed.**

7. Registrar (Compliance) is directed to communicate this order to the court concerned within a period of fifteen days from today.

Order Date :- 11.12.2023

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(Jayant Banerji, J.)