

Court No. - 1

Case :- MATTERS UNDER ARTICLE 227 No. - 8843 of 2023

Petitioner :- Ram Kewal Verma

Respondent :- Kamlawati Devi And Another

Counsel for Petitioner :- Bhaju Ram Pprasad Sharma

Hon'ble Jayant Banerji, J.

1. Heard learned counsel for the petitioner.

2. This petition has been filed seeking the following relief:

"i) To set aside the order 8.8.2023 passed by Civil Judge (Senior Division) District Maharajganj in original suit no. 410 of 2023 (Ram Kewal Versus Kamlawati and another) (Annexure no. 3 to the Misc. Petition)

ii) To direct the Civil Judge (Senior Division) District Maharajganj to decide the interim injunction application No. 6Ga-2 supported by affidavit 7Ga on the next date fixed.

iii) To direct the parties to maintain status quo on spot regard to nature and possession over the property in dispute/ suit in question."

3. It appears that a suit injunction has been filed by the petitioner bearing Original Suit No. 410 of 2023 seeking a decree of permanent injunction with regard to an abadi area. In the aforesaid suit, an application 6C under Order 39 Rule 1 and 2 read with Section 151 CPC has been filed by the petitioner seeking temporary injunction. The trial court by order dated 8.8.2023 declined to grant an ex-parte ad-interim injunction on the ground that no documents with regard to the ownership and possession of the plaintiff has been filed and, therefore, issued notice to the defendants. By an order of the same date, a commission has been issued.

4. Under the facts and circumstances, since the suit itself was filed on 8.8.2023, the relief as prayed for is declined. It is only after the sufficiency of service on the defendants is recorded, the trial court can proceed to consider the application or the suit in accordance with the law. The trial court has stated that it is not a case for grant of ex-parte injunction.

5. Under the circumstances, no interference is called for and this petition is **dismissed**.

Order Date :- 3.11.2023

A. V. Singh

(Jayant Banerji, J.)