

Court No. - 1

Case :- MATTERS UNDER ARTICLE 227 No. - 8855 of 2023

Petitioner :- Mohd. Imran

Respondent :- Qamar Noor And Another

Counsel for Petitioner :- Arvind Srivastava, Fahd Iqbal

Hon'ble Jayant Banerji, J.

1. Heard learned counsel for the petitioner.

2. It appears that the respondent no. 1 has instituted an Original Suit No. 387 of 2020 seeking cancellation of a sale deed dated 14.10.2020 and permanent injunction. On behalf of the defendants, an application under Order 7 Rule 11 CPC was filed seeking rejection of the plaint on the ground that the suit is barred under Section 331 of the U.P.Z.A. and L.R. Act read with Section 206 of the U.P. Revenue Code, 2006, given the fact that a suit for partition ought to have been filed under Section 116 of the Code, 2006. By the impugned order dated 9.11.2021, after relying upon a catena of decisions passed by this Court, the application of the defendant was rejected by Additional Civil Judge (Junior Division). The revision filed by the petitioner was petitioner-defendant was also unsuccessful and it was dismissed by a judgment and order dated 5.11.2022.

3. I have perused the two judgments as well as the plaint and the application moved under Order 7 Rule 11 CPC. The primary relief sought in the plaint is one of cancellation of a sale deed and therefore, I am inclined to agree with the observations made by the courts which are based on numerous decisions passed by this Court as well as by the Apex Court.

4. Accordingly, interference is refused and this petition is **dismissed**.

Order Date :- 3.11.2023

A. V. Singh

(Jayant Banerji, J.)