

Court No. - 1

Case :- MATTERS UNDER ARTICLE 227 No. - 8907 of 2023

Petitioner :- Lucky Jain

Respondent :- Smt. Chandra Lata Jain

Counsel for Petitioner :- Vibhu Rai, Abhinav Gaur, Sr. Advocate

Hon'ble Jayant Banerji, J.

1. Heard Shri Ami Tandon, Advocate Roll- A/A1134/2022, holding brief of Shri Abhinav Gaur, learned counsel for the petitioner.

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

"I. Issue an appropriate order or direction directing/commanding the Court of Civil Judge (Senior Division), Aligarh to decide the Temporary Injunction Application [Paper No. 7Ga] in Original Suit No. 582 of 2023 (Lucky Jain versus Smt. Chandra Lata) expeditiously preferably on the next date fixed.

II. Issue an appropriate order or direction directing/ commanding the respondent from disposing of or creating any third party rights/encumbrance over the suit property in question till the decision is passed on the Temporary Injunction Application [Paper No. 7Ga] in Original Suit No. 582 of 2023 (Lucky Jain versus Smt. Chandra Lata).

III. Issue any other and further appropriate order or direction which this Hon'ble Court may deem fit and proper in the circumstances of the case."

3. It appears that the aforesaid Suit No. 583 of 2023 was filed in the court of Civil Judge (Senior Division), Aligarh seeking a decree of cancellation of a registered will deed dated 13.5.2020 and for permanent injunction. It is stated that in the aforesaid suit, an application under Order 39 Rules 1 and 2 read with Section 151 CPC was filed in which, by an order, notice was directed to be issued. It is stated that, accordingly, the relief in this petition is sought.

4. The order-sheet filed shows that on the last date of listing the case was adjourned for purpose of filing of written statement. As such, the present stage of the suit is not reflected in the order sheet. Be that as it may, it has not been demonstrated as to how the order issuing notice to the defendants on the application for temporary injunction would entitle the petitioner to an injunction as prayed for in prayer no. 2 in this petition. As far as prayer no. 1 aforesaid is concerned, it is the civil judge who would take a decision in the matter at the appropriate stage, after he is satisfied that the

notice has been duly served and the parties are represented.

5. Under the circumstances, no interference is made out and this petition is **dismissed**.

Order Date :- 9.11.2023

A. V. Singh

(Jayant Banerji, J.)