

Court No. - 1

Case :- MATTERS UNDER ARTICLE 227 No. - 9293 of 2023

Petitioner :- Shri Devi Sahai Memorial Junior High School Trust

Respondent :- Shri Manoj Gulati And 10 Others

Counsel for Petitioner :- J.P. Pandey, Devesh Pandey

Hon'ble Jayant Banerji, J.

1. Heard learned counsel for the petitioner.

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

"(I) Issue a suitable order or direction exercising its supervisory power as enshrined under Article 227 of the Constitution of India by directing the trial court to conclude the proceedings of temporary injunction filed by the petitioner under Order 39 Rule 1 & 2 read with section 151 C.P.C. in Original Civil Suit No. 873 of 2023 (Shri Devi Sahai Memorial Junior High School Trust (regd.) Vs. Shri Manoj Gulati & Ors.), within time bound frame.

(ii) Issue further direction to the defendants-respondents not to interfere in peaceful possession of the petitioner in any manner whatsoever in respect of the suit property till disposal of the temporary injunction application, otherwise the petitioner-plaintiff shall suffer irreparable loss and injury."

3. Learned counsel for the petitioner states that at this stage, the petitioner is only pressing prayer no. (I).

4. The contention is the petitioner-institution has instituted a suit for permanent injunction against the defendant-respondents with regard to the suit property, which, it is stated, was allotted by the Uttar Pradesh Awas Vikas Parishad and possession was handed over by them on 30.10.1990. It is stated that the plot in question is numbered as F5 and it is earmarked for school area. The dimensions of plot are mentioned in the sale deed executed by the Awas Vikas Parishad and the boundaries have been specified in the sale deed as well as in the suit. The contention is that the respondents who have no concern whatsoever with the property allotted to the petitioner- institution by the Awas Vikas Parishad are creating hindrance and demolishing the boundary wall of the petitioner institution.

5. A perusal of the order-sheet reveals that the suit was filed on 26.7.2023 and notice was directed to be issued. It is stated that on the application 8C which was filed for grant of temporary

injunction, the trial court has observed that without hearing the defendants, it would not be appropriate to pass an order of temporary injunction. The consideration of the application 8C was, therefore, adjourned. There is no error in the order dated 26.7.2023 passed by the trial court deferring the consideration of the application 8C.

6. However, given the nature of allegations made in the plaint, it expected that the trial court would proceed to consider the application 8C expeditiously after ensuring that the defendants have been duly served with notice of summons and in case there is no other legal impediment.

7. The petition is, accordingly, **disposed of**.

Order Date :- 18.10.2023

A. V. Singh

(Jayant Banerji, J.)