

Court No. - 1

Case :- MATTERS UNDER ARTICLE 227 No. - 9590 of 2023

Petitioner :- M/S B.N.Biz

Respondent :- Deepak Kumar And 10 Others

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

Hon'ble Jayant Banerji, J.

Heard Sri Anoop Trivedi, learned Senior Advocate assisted by Sri Vibhu Rai, learned counsel for the petitioner.

This petition has been filed seeking the following relief:

"I. Issue an appropriate order or direction setting aside the order dated 22.8.2023 passed by the Court of Ld. District Judge, Moradabad in Civil Appeal No. 51 of 2023 (titled 'M/s B.N. Biz & others Vs. Deepak Kumar & others) (annexed as Annexure no. 14 to this petition)."

A perusal of the order dated 22.8.2023 reflects that it was passed in Civil Misc. Appeal No. 51 of 2023, in which an order dated 3.8.2023 was challenged. When repeatedly asked, learned counsel for the petitioner could not show the order dated 3.8.2023 against which Misc. Appeal was filed.

It has been observed by the appellate court that no prima facie case is made out. It was observed that without hearing the other defendants, no temporary injunction could be granted and, therefore, notice was directed to be issued.

The contention of the learned counsel for the petitioner is that once appeal has been admitted, temporary injunction should be granted.

Without the order dated 3.8.2023 being made available for perusal of the Court, I decline to interfere in this petition. Even otherwise, notice has been directed to be issued in Misc. Appeal, which appeal is stated to have been filed rejecting the application for temporary injunction. If that be so, I see no error in the order impugned.

This petition is, therefore, **dismissed**.

Order Date :- 26.10.2023

sfa/

(Jayant Banerji, J)