

Court No. - 1

Case :- MATTERS UNDER ARTICLE 227 No. - 9603 of 2023

Petitioner :- Shiv Dayal @ Shivpuri @ Shiv

Respondent :- State Of U.P. And 6 Others

Counsel for Petitioner :- Kamlesh Kumar Tiwari, Priya Tiwari

Counsel for Respondent :- CSC

Hon'ble Jayant Banerji, J.

1. Heard Shri Amrish Tiwari (AOR No.A/A 0021/2020), holding brief of Shri K.K. Tiwari, learned counsel for the petitioner.

2. This petition has been filed seeking the following reliefs:-

"i. A direction may be issued to the Civil Judge (J.D.), Kanpur Dehat to decide the injunction application 6C dated 31.07.2023 of the plaintiff/petitioner filed in O.S. No.725 of 2023 (Shiv Dayal @ Shivpuri @ Shiv Vs. State of U.P. & others) within specify period, which be fixed by this Hon'ble Court, may deem fit and proper.

ii. to set aside the order dated 23.08.2023 passed by Civil Judge (J.D.), Kanpur Dehat in O.S. No.725 of 2023 (Shiv Dayal @ Shivpuri @ Shiv Vs. State of U.P. & others)."

3. It appears that Original Suit No.725 of 2023 was filed by the petitioner seeking a relief of permanent injunction. It appears that alongwith the aforesaid suit, an application 6C-2 was filed seeking temporary injunction on which application, by an order dated 23.08.2023, notice was directed to be issued. It is stated that the defendants are illegally constructing the water tank on the bhumidhari land of the petitioner.

4. Considering the facts and circumstances of the case, in case the provisions of Section 80 CPC have been complied with and sub-section (2) of Section 80 CPC is duly availed of by the plaintiff, and if the defendants are duly served, the trial court is required to consider the application 6C-2 without granting any

unnecessary adjournments to either of the parties, provided there is no legal impediment.

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

Order Date :- 16.12.2023

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(Jayant Banerji, J.)