

Court No. - 1

Case :- MATTERS UNDER ARTICLE 227 No. - 9776 of 2023

Petitioner :- Sunil Kumar Tiwari

Respondent :- Vishwanath Tiwari And 4 Others

Counsel for Petitioner :- Virendra Kumar Yadav

Hon'ble Jayant Banerji, J.

1. Heard learned counsel for the petitioner.
2. This petition has been filed seeking a direction to the Civil Judge (Junior Division), Court No. 5, Varanasi to decide the application 6C dated 17.1.2023 filed in Original Suit No. 175 of 2023 (Sunil Kumar Tiwari Vs. Vishwanath Tiwari and others).
3. A perusal of the plaint that is enclosed as Annexure No. 1 to this petition reflects that a suit for permanent injunction has been sought for restraining the defendants from interfering in 1/6th part of the two plots of agricultural land bearing under head 'A' of the schedule to the plaint and in respect of 1/4th part of the agricultural plot reflected in head 'B' in the schedule of the plaint. The application under Order 39 Rule 1 and 2 read with Section 151 of the C.P.C. appears on page 23 of this petition in which the same relief, that is, reflected in the plaint is sought.
4. In view of the fact that the property in dispute is undivided, is agricultural and without seeking partition, the petitioner has sought an injunction with regard to his alleged share therein, and the fact that in the temporary injunction application 6C, the same relief is sought as in the plaint, no interference is called for.
5. This petition is, accordingly, **dismissed**.
6. Registrar (Compliance) is directed to communicate this order to the concerned court within a period of fifteen days from today.

Order Date :- 17.11.2023

A. V. Singh

(Jayant Banerji, J.)