

Court No. - 1

Case :- MATTERS UNDER ARTICLE 227 No. - 9734 of 2023

Petitioner :- Firm Ashok Prakashan And 2 Others

Respondent :- Chief Secretary Government Of Uttar Pradesh
And 17 Others

Counsel for Petitioner :- Jyoti Kumar Singh

Counsel for Respondent :- C.S.C.

Hon'ble Jayant Banerji,J.

1. Heard Shri Kartikeya Saran, learned counsel for the petitioners and Shri Sanjay Kumar Singh, learned Additional Chief Standing Counsel appearing for the State.

2. By means of this petition, an order dated 11.4.2023 passed by the Civil Judge (Junior Division) Ist, Bulandshahar in Misc. Case No. 87 of 2023 (Firm Ashok Prakashan Vs. Chief Secretary, U.P. Government and others) whereby the application filed by the petitioner under Section 80(2) of the CPC seeking waiver of notice under Section 80(1) of the CPC has been rejected. Further under challenge is an order dated 5.7.2023 passed by the Additional District Judge, Fast Track Court, Court No. 4, Bulandshahar, whereby, the revision filed by the petitioner bearing Civil Revision No. 56 of 2023 against the aforesaid order dated 11.4.2023, has been dismissed.

3. The contention of the learned counsel for the petitioner is that the right of the petitioner to sell school course books was adjudicated in Original Suit No. 340 of 1993 which was decreed pursuant to a judgment and order dated 21.10.2022 which has become final and as such, interference of the respondents on the sale of books by the petitioners was sought to be challenged by filing an urgent suit before the trial court in which the aforesaid application was filed. It is contended that the trial court had recorded the merits of the suit itself while rejecting the application under Section 80(2) CPC. It is further stated that the revisional court has erroneously gone on the merits of the matter while rejecting the revision.

4. Learned Additional Chief Standing Counsel has opposed this petition.

5. A perusal of the record of this petition reveals that this petition was filed on 18.9.2023. The petitioner is stated to have filed the application under Section 80(2) of the CPC on

11.4.2013 which application was dismissed on the same day and the revision filed against that order was also dismissed by the judgment and order dated 5.7.2023. There was adequate time for the petitioner to comply with the provisions of Section 80 CPC and the present petition is just a frivolous litigation. The interference in the orders impugned, therefore, is declined.

6. As far as the contention of the learned counsel for the petitioners that the courts have considered the merits of the matter is concerned, it appears from perusal of the application under Section 80(2) CPC that detailed averments were made in the application itself regarding the previous Suit No. 340 of 1993 which was decreed on 21.10.2022. Therefore, the courts have apparently dealt with the averments made in the application itself and as such, the orders cannot be faulted.

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

8. The Registrar (Compliance) is directed to send a copy of this order to the concerned court within fifteen days, for information.

Order Date :- 7.12.2023

A. V. Singh

(Jayant Banerji, J.)