

Court No. - 1

Case :- MATTERS UNDER ARTICLE 227 No. - 10089 of 2023

Petitioner :- Kamlesh Vishwakarma

Respondent :- Baijanti Devi And 6 Others

Counsel for Petitioner :- Krishna Kant Upadhyay

Hon'ble Jayant Banerji,J.

1. Supplementary Affidavit filed today, is taken on record.

2. Heard learned counsel for the petitioner.

3. This petition has been filed seeking following reliefs:-

"i) issue a direction to the respondents not to interfere or dispossess the petitioner from the suit property and also restrain the respondents to transfer the suit property by way of Sale Deed, Gift Deed or any other manner during the pendency of civil suit filed by the petitioner pending before the Civil Judge (Senior Division) Chandauli as Case No.303 of 2021 (Kamlesh Vishwakarma Vs. Baijanti Devi others)

ii) Issue a direction commanding/directing the Civil Judge (Junior Division) Chandauli to decide the Case No.303 of 2021 ((Kamlesh Vishwakarma Vs. Baijanti Devi others) filed by the petitioner for

iii) Issue any other suitable, order or direction which this Hon'ble Court may deem fit and proper in the circumstances of the case.

iv) Award cost the petition in favour of the petitioner.

3. At the outset, the learned counsel for the petitioner states that he is not pressing relief no.1 of this petition.

4. It appears Original Suit No.303 of 2021 was filed in the court of Civil Judge (Junior Division), Chandauli seeking a decree of declaration for voidance of gift deed dated 22.6.2021 and further for cancellation of sale-deeds dated 8.11.2021 and 4.02.2022. The suit was filed on 12.08.2021 and, as contended by the learned counsel for the petitioner, on 19.12.2022 the defendant Nos.1, 5 and 6 have appeared. He states that written statement has not been filed.

5. If defendants are not appearing in suit, it is for the petitioner-plaintiff to file an appropriate application before the court

concerned for proceeding with the case. In case, any such application is filed by the plaintiff, the trial court is required to consider the application expeditiously.

4. This petition is **dismissed**.

Order Date :- 24.11.2023

SFH

(Jayant Banerji, J.)