

Court No. - 51

Case :- WRIT - C No. - 34857 of 2023

Petitioner :- Anil Kumar

Respondent :- State Of U.P. And 9 Others

Counsel for Petitioner :- Javed Alam, Anjit Kumar Verma

Counsel for Respondent :- C.S.C., Tanisha Jahangir Monir

Hon'ble Chandra Kumar Rai, J.

1. Heard Mr. Arvind Kumar Singh holding brief of Mr. Anjit Kumar Verma, Counsel for the petitioner, Ms. Sunita Chauhan holding brief of Ms. Tanisha Jahangir Monir, Counsel for respondent no.9 and Mr. Mridul Kumar, learned Standing Counsel for the State-respondents.

2. Counsel for the petitioner submitted that partition suit under Section 116 of the U.P. Revenue Code, 2006 filed on behalf of the petitioner is pending before respondent no.2. He further submitted that along with the plaint, the application for interim relief was also filed but respondent no.2 has dismissed the application for interim relief in arbitrary manner hence this writ petition. Counsel for the petitioner further submitted that defendants/ contesting respondents are adamant to change the nature of the land, as such, interim protection is required.

3. On the other hand, Mr. Mridul Kumar, learned Standing Counsel for the State-respondents and Counsel for respondent no.9 submitted that against the order impugned, the alternative remedy is available to the petitioner, as such, writ petition is liable to be dismissed on the ground of alternative remedy. They further submitted that partition suit filed by petitioner is pending for the last one year, as such, petitioner should appear in the proceeding to contest the suit on merit.

4. I have considered the arguments advanced by learned Counsel for the parties and perused the records.

5. There is no dispute about the fact that partition suit filed by the petitioner is pending before respondent no.2 and the application for interim relief has been rejected.

6. In view of the pendency of partition suit, the instant petition is finally **disposed of** directing the respondent no.2, Sub Divisional Magistrate, Tehsil and District Ghaziabad to conclude the proceeding of aforementioned partition suit after affording opportunity of hearing to the parties expeditiously preferably within period of **four months** from the date of production of certified copy of this order.

Order Date :- 8.12.2023

Vandana Y.