

Court No. - 44

Case :- MATTERS UNDER ARTICLE 227 No. - 10939 of 2023

Petitioner :- Uttar Pradesh State Industrial Development Authority

Respondent :- Kasna Shivshakti Trust

Counsel for Petitioner :- Mahesh Narain Singh

Hon'ble Ashutosh Srivastava,J.

1. Heard Sri Mahesh Narain Singh, learned counsel for the petitioner.
2. The present petition under Article 227 of the Constitution of India has been filed for setting aside the order dated 29.05.2023 passed by the Civil Judge (Senior Division), Gautam Budh Nagar in Original Suit No. 441 of 2021 (Kasna Shiv Shakti Trust vs. U.P. State Industrial Development Authority), whereby the application preferred by the petitioner under Order 39 Rule 4 C.P.C. registered as Paper No. 30-C2, for recall of the injunction granted in favour of the plaintiff-respondent, has been rejected.
3. In the opinion of the Court, the order passed rejecting an application under Order 39 Rule 4 C.P.C. is appealable under Order 43 Rule 1(r) C.P.C..
4. Faced with the aforesaid, Sri Mahesh Narain Singh seeks liberty of the Court to withdraw the present petition with liberty to file an appeal under Order 43 Rule 1(r) C.P.C. He submits that the Registry may be directed to return the certified copy of the order impugned to enable him to file the appeal.
5. On the statement of Sri Mahesh Narain Singh, the present petition is permitted to be withdrawn with liberty to the petitioner to file an appeal under Order 43 Rule 1(r) C.P.C. The Registry is further directed to return the certified copy of the order impugned to the learned counsel for the petitioner after retaining a photostat copy of the same on record.
6. Accordingly, the present petition is dismissed as withdrawn.

Order Date :- 6.12.2023

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