

Court No. - 44

Case :- MATTERS UNDER ARTICLE 227 No. - 10891 of 2023

Petitioner :- Mahesh Giri

Respondent :- Dineswar Giri And 10 Others

Counsel for Petitioner :- Krishna Nand Rai, Vijay Anand Rai

Hon'ble Ashutosh Srivastava, J.

Heard Shri Krishna Nand Rai, learned counsel for the petitioner.

Considering the nature of the order that is proposed to be passed, the service of notice upon respondent is being dispensed with.

The present petition under Article 227 of the Constitution of India has been filed for a direction to the Civil Judge (Jr. Div.) East, Ballia to decide the interim injunction application (Paper No. 6C-2) filed by the plaintiffs/respondents in Original Suit No. 520 of 2016 (Dineshwar and others versus Mahesh Giri and others) within the time frame fixed by this Court taking into consideration the objections of the defendants/petitioner filed in respect thereof.

Learned counsel for the petitioner submits that the plaintiffs/respondents have instituted a suit for permanent prohibitory injunction. Along with the plaint of the said suit, filed an application for interim injunction and the trial court granted ex parte interim injunction in favour of the plaintiffs/respondents vide order dated 3.9.2016. The defendants/petitioner has put in appearance in the proceedings and has filed his objection on 8.2.2017 to the interim injunction application as well as written statement and thereafter various dates are being fixed for disposal of the interim injunction application (Paper No. 6C-2), however, no final orders are being passed and on each dates, the temporary injunction granted is being extended.

Learned counsel for the petitioner submits that the ex parte injunction granted in favour of the plaintiffs-respondents is affecting the rights of the defendants and despite having filed the objection to the said temporary injunction application, even after passage of more than six years, the injunction application has not been finally decided. He submits that purpose of filing the present petition would stand served, if appropriate directions are issued to the Court concerned for expeditious disposal of the interim

injunction application (Paper No. 6C-2).

I have heard learned counsel for the parties and have perused the record.

From the order sheet of the proceedings which have been brought on record as Annexure-5 to the petition, it is borne out that the trial court vide order dated 3.9.2016 had granted the exparte injunction in favour of the plaintiffs-respondents restraining the defendants from interfering in the possession of the plaintiffs in respect of plot Nos. 784 Kha, 785 kha 786 & 787 situate in Mauja Cheruiya, Pargana and District Ballia and further restrained them from raising any construction thereon. The petitioner/defendants has already put in appearance and filed his objections but the interim injunction application is pending consideration for the last more than six years.

In the opinion of the Court, ends of justice would stand served, if directions are issued for expeditious disposal of interim injunction application (Paper No. 6C-2).

Accordingly, the petition is ***disposed of*** requiring the Civil Judge (Jr.Div.) East, Ballia seized with the interim injunction application (Paper No. 6C-2) filed in Original Suit No. 520 of 2016 (Dineshwar and others versus Mahesh Giri and others) to take up the same and pass final orders expeditiously preferably on the next date fixed or within two months from the next date fixed, upon service of certified copy of the orders of this Court, in accordance with law.

Order Date :- 13.12.2023

Ravi Prakash

(Ashutosh Srivastava, J.)