

Court No. - 44

Case :- MATTERS UNDER ARTICLE 227 No. - 10894 of 2023

Petitioner :- Nitin Kumar

Respondent :- Dinesh Kumar Pathak And Another

Counsel for Petitioner :- Satya Priya Mishra, Satya Bhushan Singh

Hon'ble Ashutosh Srivastava, J.

Heard Shri Satya Priya Mishra, learned counsel for the petitioner.

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

Present petition, under Article 227 of the Constitution of India, has been filed with a prayer for a direction to the Civil Judge (Junior Division) Gorakhpur, to decide the Original Application No. 5625 of 2017 (Dinesh Kumar and another vs. Nitin Kumar) under Section 9, 37 and 38 of Specific Relief Act, within a stipulated period.

Although a prayer for expeditious disposal of the proceedings of the Original Application No. 5625 of 2017, has been sought but, during the course of arguments, learned counsel for the petitioner has confined the relief for a direction to the Court concerned for expeditious disposal of the interim injunction application, Paper No. 7C, which is pending since 2017.

Learned counsel for the petitioner submits that one Sant Prasad has three sons namely Anil Kumar Pathak, Rakesh Kumar Pathak and Dinesh Kumar Pathak. Anil Kumar Pathak and his wife namely Shilla Pathak, died respectively on 14.12.2016 and 04.08.2009. The defendant/ petitioner is son of Late Anil Kumar Pathak, but the plaintiffs/ respondents have filed the aforesaid suit for permanent injunction, with wrong averment that Late Anil Kumar Pathak was issue less and Smt. Sheela Pathak, wife of Anil Kumar Pathak, had executed a Will Deed in favour of the plaintiffs/respondents. The plaintiffs/ respondents have threatened to evict the petitioner from his own house.

The petitioner/defendant has put in appearance and filed written statement/ objections. But the disposal of the Injunction Application is unnecessarily being delayed.

Heard learned counsel for the petitioner and perused the record.

Learned counsel for the petitioner submits that the aforesaid application for interim injunction is pending since 2017 and the purpose of filing present petition shall stands served if appropriate directions are issued to the Civil Judge (Junior Division) Gorakhpur, to conclude and decide the Application 7-C, moved by the plaintiff/respondents, in Original Application No. 5625 of 2017, within the time frame fixed by this Court.

Considering the urgency as pressed by the petitioner, the present petition is ***disposed off*** by requiring the Civil Judge (Junior Division) Gorakhpur, to conclude and decide the Application, moved by the plaintiffs/respondents, Paper No. 7-C, in Original Application No. 5625 of 2017, expeditiously, preferably on the next date fixed or within two months from the date fixed upon service of certified copy of the order of this Court, strictly, in accordance with law.

Order Date :- 6.12.2023

Deepak/