

Court No. - 10

Case :- MATTERS UNDER ARTICLE 227 No. - 11549 of 2023

Petitioner :- Omkar Sharma @ Onkar Sharma

Respondent :- Mohan Lal And 17 Others

Counsel for Petitioner :- Kharag Singh

Counsel for Respondent :- Shyam Kishore Yadav, Kunwar Akhilendra Singh

Hon'ble Kshitij Shailendra, J.

1. Heard Sri Kharag Singh, learned counsel for the petitioner and Sri Shyam Kishore Yadav, learned counsel for Respondent No.1.
2. A suit for permanent prohibitory injunction filed by Respondent No.1 was decreed by the trial court on 29.10.2018 and the civil appeal filed by the petitioner against the decree has been dismissed on 6.4.2019.
3. It is contended that against the aforesaid decrees, Second Appeal No. 757 of 2019 is pending before this Court in which record of the court below has been summoned.
4. This petition has been filed challenging two orders. By the first order, the objections filed by the petitioner under Section 47 C.P.C. were rejected by the executing court whereas by the second order, the revision preferred against the rejection order has been dismissed.
5. Learned counsel for the petitioner submits that during pendency of the revision, the decree has been executed.
6. On merits, of his objections, it is contended that the courts below did not examine the boundaries of the property in dispute and passed a wrong decree on facts.
7. Having heard learned counsel for the parties, I find that the courts below have taken right view of the matter that the issues, which were discussed during the course of trial while passing the judgments, cannot be reopened. The courts below have observed that the executing court cannot go behind the decree.
8. The court does not find any good ground to take a different view of the matter, particularly, when the decree has already

been given effect to and both the parties state that they are in respective possession of their own property.

9. There being no order in favour of the petitioner, in the pending second appeal, the court is not inclined to interfere in the orders impugned.

10. The petition has no merit and is, accordingly, **dismissed**.

Order Date :- 22.11.2023

Kumar Manish.