

Court No. - 44

Case :- MATTERS UNDER ARTICLE 227 No. - 11783 of 2023

Petitioner :- Harendra Yadav And Another

Respondent :- Rajendera Prasad And 5 Others

Counsel for Petitioner :- Rajesh Yadav

Hon'ble Ashutosh Srivastava,J.

Heard Shri Pradeep Kumar, Advocate, under the authority of Shri Rajesh Yadav, learned counsel for the petitioners.

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

Present petition under Article 227 of the Constitution of India has been filed for a direction to the learned Civil Judge (Junior Division) Mau, to decide the application under Order 7 Rule 11 CPC (paper no. 21C-2), filed in Civil Suit No. 317 of 2022 (Rajendra Kumar and another vs. Harish Chandra and others), within a stipulated time.

Learned counsel for the petitioners submits that the suit in question has been filed for injunction as well as declaration of the sale deed dated 29.10.2021 as null and void. The petitioners, who were defendants in the said suit, have filed an application dated 20.12.2022 under Order 7 Rule 11 CPC by raising objections that the suit is barred by Section 206 of the U.P. Revenue Code, 2006 and under Section 49 of the U.P. Consolidation of Holdings Act 1953. The said application (registered as paper no. 21C-2) is pending consideration and even though dates are being fixed the application remains pending and no order has yet been passed thereon. He further submits that before the Suit can proceed, the application under Order 7 Rule 11 CPC may be considered and appropriate orders be passed. He submits that the purpose of filing the present petition would stand served if appropriate directions are issued to the Court concerned for expeditious disposal of the application under Order 7 Rule 11 CPC registered as paper no. 21C-2.

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

From the order sheet of the proceedings, that has been brought on record as Annexure no. 4 to the petition, it is borne out that the petitioners, defendants in the suit, has preferred an application under Order 7 Rule 11 CPC, registered as paper no. 21C-2, and in the opinion of the Court a direction can be issued to the Court concerned that before proceeding in the suit any further the application under Order 7 Rule 11 is liable to be considered to save precious time of the Court in proceeding with the Suit, inasmuch as if the application is allowed the Court is not required to proceed any further and on the other hand if the application is rejected the Court can proceed with the suit.

In such view of the matter the ends of justice would stand served if expeditious disposal of the application under Order 7 rule 11, registered as paper no. 6C-2, is ordered.

Accordingly, the petition is ***disposed off*** by requiring the Civil Judge (Senior Division) Mau, seized with the application under Order 7 Rule 11 CPC (paper no. 21C-2), filed in Original Suit No. 317 of 2022 (Rajendra Kumar and another vs. Harish Chandra and others), to be decided within a period three months from the date of service of certified copy of the order of this Court, in accordance with law.

Order Date :- 13.12.2023

Deepak/