

Court No. - 4

Case :- MATTERS UNDER ARTICLE 227 No. - 11577 of 2023

Petitioner :- Mohammad Gayoor

Respondent :- Mohd.Zeeshan

Counsel for Petitioner :- Mumtaz Ahmad Siddiqui, Gaurav Tiwari

Hon'ble Prakash Padia, J.

1. The present petition has been filed against the order dated 5.10.2023 passed in Original Suit No.664 of 2023 (Mohd. Zeeshan Vs. Mohd. Mushraff and others), whereby the interim injunction was granted without hearing the petitioner, who is defendant in the suit.

2. It is argued by learned counsel for the petitioner that the aforesaid order dated 5.10.2023 has been passed without considering the relevant aspects of the matter. It is further argued that the various facts were concealed by the plaintiff-respondent in filing the suit.

3. Heard learned counsel for the petitioner and perused the record.

4. From perusal of the record it transpires that against the *ex parte* injunction order dated 5.10.2023, two statutory remedies are available to the petitioner, one is to file stay vacation application and another is to file an appeal as provided under Order XLIII Rule 1 (r) of C.P.C.

5. In view of the above, a prayer has been made by learned counsel for the petitioner to dismiss the present petition with liberty to file the stay vacation application. It is further prayed that a direction may be issued by this Court to the court below to decide the stay vacation application of the petitioner in terms of the letter dated 16.8.2017 bearing No.CL No.24/Admn. G-II, dated Allahabad 16.8.2017, issued by this Court.

6. In view of the submission advanced by the learned counsel for the petitioner and considering the facts of the case, this Court is of the opinion that the petitioner is permitted to move the stay vacation application raising all his grievances before the court below within a period of two weeks from today.

7. In case any such application is filed by the petitioner, the court below is directed to decide the same in terms of the letter dated 16.8.2017 bearing No.CL No.24/Admn. G-II, dated Allahabad 16.8.2017 and the same is quoted below:-

"From,
Mohd.Faiz Alam Khan, HJS,

*Registrar General,
High Court of Judicature at Allahabad*

*To,
All the District & Sessions Judges, Subordinate to the High Court of Judicature at
Allahabad.*

C.L. No. 24/Admin. 'G-II' Dated: Allahabad 16.08.17

Sub: Time bound disposal of interim injunction application.

Madam/Sir,

Hon'ble Court has directed that all the subordinate courts must ensure to dispose of applications of interim injunction within six months, failing which they shall have to record reasons in the order-sheet. I am, therefore, directed to request you to circulate the instant direction amongst all the judicial Officers working under your supervision and control and to ensure strict compliance of the same in letter and spirit.

Your faithfully,

(Mohd. Faiz Alam Khan)

No. 9770/Admin. 'G-II' Dated: Allahabad 16.08.2017"

8. With the aforesaid, the present petition is disposed of.

Order Date :- 16.11.2023

S.K.