

Court No. - 44

Case :- MATTERS UNDER ARTICLE 227 No. - 12174 of 2023

Petitioner :- Ramrichhpal Singh Tomar And Another

Respondent :- Smt. Kamlesh

Counsel for Petitioner :- Ajay Singh Yadav, Yatindra

Hon'ble Ashutosh Srivastava, J.

1. Heard Shri Ajay Singh Yadav, learned counsel for the petitioners.
2. Considering the nature of the order proposed to be passed notice upon the respondent no.1 is hereby dispensed with.
3. The petitioners are the defendants in a Suit, being Original Suit No.1332 of 2021, instituted by the plaintiff-respondent. The said Suit has been decreed ex-parte by judgment dated 4.8.2023 and decree dated 16.8.2023. The petitioner - judgment debtors have sought recall of the ex-parte decree by filing an application under Order 9 Rule 13 read with Section 151 CPC, which has been registered as misc. case no.316 of 2023 along with the application under Order 39 Rule 1 CPC.
4. The petitioners have moved the application under Order 39 Rule 1-3 read with Section 151 CPC highlighting the fact that after obtaining the ex-parte Decree, the petitioners have been partially dispossessed and in fact the plaintiff-respondent has demolished certain portion of their boundary-wall and in such view of the matter, the urgent hearing of the application under Order 39 Rule 1-3 has been sought. He submits that the purpose of filing the present petition would stand served if appropriate directions are issued to the learned Civil Judge (Senior Division), Meerut, seized with the application under Order 39 Rule 1-3 read with Section 151 CPC dated 9.1.2023 filed as Misc. Case No.316 of 2023 to consider and pass appropriate orders on the same within the stipulated time frame fixed by this Court. He submits that the next date fixed in the proceedings is 15.12.2023.
5. Having heard learned Counsel for the petitioners and having perused the record as also the averments made in the application under Order 39 Rule 1-3 read with section 151 CPC which has been filed on record as Annexure-1 as also 2 photographs showing the demolition of certain portion of the boundary-wall of the

petitioners-judgment debtors. Order for expeditious disposal and the application under Order 39 Rule 1-3 CPC can be passed

6. This petition is, accordingly, disposed of by requiring the Civil Judge (Senior Division), Meerut, seized with the Misc. Case No.316 of 2023 (Ramrichhpal Singh Tomar Vs. Smt. Kamlesh) as also the application under Order 39 Rule 1-3 read with Section 151 CPC dated 9.10.2023 which has been fixed for 15.12.2023 to take up the matter on the date fixed and pass appropriate orders thereon in accordance with law. The Civil Judge (Senior Division), Meerut, shall make all endeavour to decide the application under Order 39 Rule 1-3 read with Section 151 CPC on 15.12.2023 itself which is the date fixed in the matter.

Order Date :- 1.12.2023

Irshad