

Court No. - 44

Case :- MATTERS UNDER ARTICLE 227 No. - 11787 of 2023

Petitioner :- Rijvana Begam

Respondent :- Jafar Khan And 3 Others

Counsel for Petitioner :- Pramod Kumar Vishwakarma

Hon'ble Ashutosh Srivastava,J.

Heard Shri Pramod Kumar Vishwakarma, learned counsel for the petitioner.

The petitioner is a plaintiff in a suit, bearing No. 810 of 2022(Rijvana Begam Vs. Jafan Khan and others), for cancellation of a gift deed dated 31.03.2022, which is alleged to have been executed in respect of Gata No. 272, area 0.2250 Hectare, situate in village-Banahara, Pargana-Anguli, Tehsil-Shahganj, District-Jaunpur, and also of Gata No. 64, area 0.2020 Hectare, situate in village-Mahmadpur, Pargana-Anguli, Tehsil-Shahganj, District-Jaunpur.

Learned counsel for the petitioner submits that interim injunction application (6-C), filed along with the aforesaid Suit, is pending consideration and the purpose of filing the present petition would stand served if appropriate directions are issued to the learned Civil judge (Junior Division), Shahganj, District-Jaunpur, seized with the suit no. 810 of 2022, to consider and pass appropriate orders on the pending interim injunction application (6-C) within a time frame fixed by this Court.

This Court has perused the order sheet of the proceedings, annexed along with the petition as annexure no. 2.

Considering the nature of the order that is proposed to be passed the notice upon the private respondents/ defendants in the suit is being dispensed with.

A perusal of the order sheet, particularly the order dated 06.11.2022, reveals that the plaintiff-petitioner had been directed by the learned trial Court to serve the defendants- respondents herein by substituted service. In compliance of the aforesaid service upon the defendants was found to be sufficient and 30.11.2022 was fixed as next date for orders. On 30.11.2022, the

Court in its wisdom granted one more opportunity to the defendants to file objections to the interim injunction application and the plaintiff was required to take steps in pursuance thereof. The proceedings thereafter, have been pending in respect of the steps that were taken by the petitioner pursuant to the order dated 30.11.2022 and no satisfaction of service has been recorded. Consequently, the disposal of the interim injunction application is necessarily being delayed. Once the Court had recorded its satisfaction on the service upon the defendants being sufficient under substituted service, in the opinion of the Court, the trial Court ought to have proceeded to consider the application for interim injunction, on its own merits.

In view of the above, this Court is of the opinion that the petition under Article 227 can be disposed of by requiring the Civil Judge (Junior Division), Shahganj, Jaunpur, seized with the 6-C application, filed in Suit No. 810 of 2022, to consider and pass appropriate orders on the same, expeditiously, preferably, within a period of one month from the date of service of certified copy of the order of this Court.

With the aforesaid observations the writ petition is ***disposed of***.

Order Date :- 22.11.2023

Deepak/