

Court No. - 44

Case :- MATTERS UNDER ARTICLE 227 No. - 11815 of 2023

Petitioner :- Ferroo

Respondent :- Smt. Susheela

Counsel for Petitioner :- Munna Yadav

Hon'ble Ashutosh Srivastava,J.

Heard Shri Munna Yadav, learned counsel for the petitioner.

Considering the nature of the order proposed to be passed the notice upon the sole respondent is being dispensed with.

Though the relief for issuance of suitable direction to the Civil judge (Additional Khand) Haveli, Azamgarh to decide the Suit No. 301 of 2021 (Shusheela Vs. Ferro) within a time frame fixed by this Court has been prayed for but during the course of arguments, learned counsel for the petitioner has confined the relief for direction to the Court concerned to decide the issue nos. 3 and 6, framed by it, within a time frame fixed by this Court.

Learned counsel for the petitioner submits that he is the defendant in a suit, being Suit No. 301 of 2021, which has been instituted for permanent injunction to restrain the petitioner not to encroach upon the land in excess of his share and also not interfere in the possession of the plaintiff/respondent. He further submits that in the suit the petitioner has put in appearance and has filed his written statement. The learned Civil Judge under his order dated 10.01.2023 has framed as many as 6 issues and has taken the issue nos. 3 and 6 for its consideration as is evident from the order dated 21.03.2023 which has been brought on record as annexure no. 4 to the petition.

Perusal of the aforesaid order reveals that the Court has granted one last opportunity to the plaintiff to advance his arguments regarding the issue nos. 3 and 6 and 04.05.2023 was fixed in the matter. Thereafter, the case has been adjourned on some pretext or the other and in such circumstances the petitioner being defendant in the said suit has approached this Court for the direction prayed for.

This Court has heard the learned counsel for the petitioner and has

perused the record. From the order sheet that has been brought on record as annexure 4 to the petition, it is apparent that the Court below is considering the issue nos. 3 and 6. Last opportunity was granted to the plaintiff/respondent under the order dated 21.03.2023 but thereafter the matter has been lingering on some pretext or the other.

In the above facts and circumstances of the case, this Court is of the opinion that the petition can be disposed of by requiring the Civil judge (Additional Khand) Haveli, Azamgarh, to decide the issue nos. 3 and 6, preferably on the next date fixed or within two months from the date of production of certified copy of the order passed by this Court.

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

Order Date :- 22.11.2023

Deepak/