

Court No. - 44

Case :- MATTERS UNDER ARTICLE 227 No. - 12074 of 2023

Petitioner :- Tarikunisha

Respondent :- Aasma Khatun And 3 Others

Counsel for Petitioner :- Ashok Kumar Gupta

Hon'ble Ashutosh Srivastava,J.

Heard Shri Ashok Kumar Gupta, learned counsel for the petitioner.

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

The present petition under Article 227 of the Constitution of India has been instituted for a direction to the Civil Judge (Jr. Div.), Jaunpur to decide the application (6C) under Order 39 Rule 1 and Section 151 CPC filed in Original Suit No. 1408 of 2022 (Tarikunisha versus Ashma Khatun and others) stated to be pending since 22.8.2022 within the time frame fixed by this Court.

Learned counsel for the petitioner submits that the petitioner is the plaintiff in the said suit, which has been filed for seeking a relief of permanent injunction restraining the defendant not to interfere in the peaceful possession over the suit property. Learned counsel for the petitioner submits that the Trial Court vide order dated 24.8.2022 had issued notices to the defendants-respondents herein on the 6C application being of the view that no ex parte injunction could be granted to the petitioner-plaintiff.

Pursuant to the notices so issued, the service upon the defendants have been held to be sufficient under order dated 14.3.2023. However, the interim injunction application is not being considered, though dates are being fixed for consideration of the same. He submits that non consideration of the interim injunction application is causing great prejudice to the petitioner and in such circumstances, he submits the purpose of filing the present petition would stand served if appropriate directions are issued to the Court concerned to decide the pending application (6C) within the time frame fixed by this Court.

In furtherance of his submission, learned counsel for the petitioner has invited the attention of this Court to the order sheet of the case

filed on record as Annexure-3, particularly, to the order dated 14.3.2022 by which the service upon the defendants have been held to be sufficient. Thereafter, various dates have been fixed. However, the application for interim injunction remains undisposed of.

Having heard learned counsel for the petitioner and having perused the record, the Court is of the opinion that petition can be disposed of finally by requiring the Civil Judge (Jr. Div.), Jaunpur seized with interim injunction application (6C) under Order 39 Rule 1 and Section 151 CPC filed in Original Suit No. 1408 of 2022 (Tarikunisha versus Ashma Khatoon and others) to decide the same expeditiously, preferably on the next date fixed or within two months thereafter, in accordance with law.

With the aforesaid observations/directions, the writ petition stands ***disposed of***.

Order Date :- 28.11.2023
Ravi Prakash

(Ashutosh Srivastava, J.)