

Court No. - 44

Case :- MATTERS UNDER ARTICLE 227 No. - 12262 of 2023

Petitioner :- Krishna Nand Shukla

Respondent :- Vimla Shukla

Counsel for Petitioner :- Vijendra Kumar Mishra

Hon'ble Ashutosh Srivastava,J.

1. Heard Shri Virendra Kumar Mishra, learned counsel for the petitioner.
2. Considering the nature of the order proposed to be passed notice upon the private respondents is hereby dispensed with.
3. Present petition, under Article 227 of the Constitution of India, has been filed seeking direction to the Civil Judge (Junior Division), Gorakhpur, to expedite the hearing Original Suit No. 1024 of 2021 (Vimla Shukla Vs. Krishna Nand Shukla) within the stipulated time frame fixed by this Court.
4. However, during the course of arguments, learned Counsel for the petitioner has confined the relief for expeditious disposal of the interim injunction application (paper no.7-C), which is stated to be pending since 12.7.2021.
5. Learned Counsel for the petitioner submits that he is defendant in the said Suit, which has been filed for the relief of cancellation of the Will-deed dated 2.11.2017, which has been executed in his favour.
6. Pursuant to the notice issued on the application for temporary injunction, the defendant-petitioner has already put in appearance and filed his written statement. The interim injunction application, however, is pending consideration and the plaintiffs, taking advantage of the pendency of the interim injunction application, is interfering in the rights of the defendant-petitioner, which has accrued in his favour on the basis of a registered Will. He submits that even though no injunction has been passed till date, the plaintiff merely on account of the pendency of the interim injunction application in the Suit is not permitting the petitioner to enjoy the fruits of the Will executed in his favour. He submits that in such circumstances, a direction be issued to the court concerned for expeditious disposal of the interim injunction application.

7. I have heard learned Counsel for the petitioner and perused the record.

8. From the record of the proceedings, which has been brought on record as Annexure-3 to the petition, it is borne out that the petitioner has filed his objection and various dates are being fixed for consideration of the interim injunction application (paper no.7-C) filed in Original Suit No.1024 of 2021 (Vimla Shukla Vs. Krishna Nand Shukla) but no orders have yet been passed thereon. In the opinion of the Court, the petition may be disposed off with direction to the Civil Judge (Junior Division), Gorakhpur, seized with the application for interim injunction application (paper no.7-C) filed in Original Suit No.1024 of 2021 (Vimla Shukla Vs. Krishna Nand Shukla) to consider and decide the same expeditiously, preferably within a period of 2 months, from the date of production of certified copy of order of this Court, strictly in accordance with law.

9. Ordered accordingly.

Order Date :- 2.12.2023

Irshad