

Court No. - 4

Case :- MATTERS UNDER ARTICLE 227 No. - 12237 of 2023

Petitioner :- Mohammad Yameen Alias Yameen

Respondent :- Nazir Ahmad And Another

Counsel for Petitioner :- Navin Kumar

Counsel for Respondent :- Vikas Srivastava, Sushil Kumar
Kushwaha

Hon'ble Prakash Padia, J.

1. It is argued by learned counsel for the petitioner that Original Suit No.264 of 2022 has been filed by the plaintiff-petitioner along with the ad-interim injunction application being Paper No.6C was rejected by the Trial Court vide 26.11.2023. Against the aforesaid order, a Misc. Appeal No.5 of 2022 (Mohammad Yameen Vs. Nazir Ahmad and others) has been filed by the petitioner-plaintiff which was dismissed in default by the Appellate Court vide order dated 11.04.2023. It is argued by learned counsel for the petitioner that for recall of the aforesaid order, an application Under Order 41 Rule 19 read with Section 151 C.P.C. has been filed by the petitioner which was dismissed by Court below vide order dated 17.08.2023.

2. Learned counsel for the respondent have no objection if the order dated 11.04.2023. and 17.08.2023 have set aside and the matter be heard on merits.

3. Heard learned counsel for the parties and with the consent of learned counsel for the parties the present petition is disposed of.

4. In the facts and circumstances of the present case, the order dated 11.04.2023. and 17.08.2023 are set aside.

5. The appellate Court is directed to decide the Misc. Appeal No.5 of 2022 on merits most expeditiously and preferably within a period of three months from the date of production of certified copy of this order but after providing of hearing to all the parties concerned and without granting any unnecessary adjournment to any of the parties, if there is no legal impediment.

Order Date :- 11.12.2023

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