

Court No. - 4

Case :- MATTERS UNDER ARTICLE 227 No. - 12142 of 2023

Petitioner :- Gamha

Respondent :- Manager And 10 Others

Counsel for Petitioner :- Nitin Chandra Mishra, Abhishek Kumar Kushwaha

Counsel for Respondent :- CSC

Hon'ble Prakash Padia, J.

1. Heard learned counsel for the petitioner and perused the record.
2. In view of the order proposed to be passed herein, no useful purpose would be served by putting the opposite party to notice and keeping this petition pending before this Court. However, in case the opposite party feels aggrieved by the order his/her right to seek modification/variation of the order is being kept reserved.
3. The present petition has been filed with the prayer to direct the Court below to decide the restoration application of the petitioner which was numbered as Application No.35C.
4. It appears from perusal of the record that in Original Suit No.400 of 2022 (Manager and others Vs. Kashi and others) filed by the plaintiff-respondent, an ex-parte injunction was granted in favour of the plaintiff-respondent by the Civil Judge (Junior Division) Kushinagar at Padrauna on 11.04.2023 by which a direction was given to the defendant-petitioner not to interfere with the peaceful possession of the property described at the bottom of the plaint. Aggrieved with the aforesaid order, an application No.35C has been filed by the petitioner with the prayer to recall the order dated 11.04.2023.
5. It is argued by learned counsel for the petitioner that though the

objection were invited on the aforesaid application vide order dated 11.10.2023 but till the aforesaid application is still pending. It is argued that due to pendency of the aforesaid recall application, the petitioner is suffering from irreparable loss and injury and prays that the Court below be directed to decide the aforesaid application expeditiously.

6. In the facts and circumstances of the case, the present petition is disposed of directing the court concerned to decide the aforesaid recall application strictly in accordance with law most expeditiously and preferably within a period of six weeks from the date of production of certified copy before the Court below but after providing opportunity of hearing to all the parties concerned and without granting unnecessary adjournment unless there is no legal impediment.

Order Date :- 5.12.2023

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