

Court No. - 44

Case :- MATTERS UNDER ARTICLE 227 No. - 12301 of 2023

Petitioner :- Smt. Malini Pandey

Respondent :- Smt. Saroj Gupta And Another

Counsel for Petitioner :- Azad Rai,Ashutosh Mishra

Hon'ble Ashutosh Srivastava,J.

1. Heard Shri Ashutosh 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 for expeditious disposal of Civil Suit No.1372 of 2020 (Smt. Malini Pandey Vs. Smt. Saroj Gupta) as well as expeditious disposal of interim injunction application (paper no.6-C) filed in the said Suit within the stipulated time frame fixed by this Court.
4. Learned Counsel for the petitioner submits that the Suit has been filed for the relief of permanent injunction in respect of the land contained in Arazi No.270, having an area 101.30 Sq. meter, situated in Village Pathra Tappa, Pargana Haveli, Tehsil - Sadar, District - Gorakhpur. Along with the plaint of the aforesaid Suit, an application for temporary injunction under Order 39 Rule 1-2 read with Section 151 CPC was filed, on which notices were issued to the opposite party inviting objections. The defendant no.1 has put in appearance but despite of time having been granted, no objection or written statement has been filed.
5. It is contended by the learned Counsel for the petitioner that the defendants have not filed any response to the application or the plaint but are proceeding with their construction activity over the land in question. In these circumstances, a direction for expeditious disposal of application (paper no.6-C) has been sought.
6. I have heard learned counsel for the petitioner and have perused the record.
7. From the order-sheet that has been brought on record as

Annexure-4 to the petition, it reveals that the learned Civil Judge (Junior Division), Court No.5, Gorakhpur, heard the plaintiff on 7.4.2023 on the interim injunction application fixed 8.12.2020 as next date. The defendant no.2 appeared in the proceedings on 8.12.2020 and obtained the copy of the plaint and the application for interim injunction. Thereafter, various dates have been fixed for consideration of application (paper no.6-C). However, no order granting the temporary injunction has been passed. The defendants have also not filed the objection in the said application.

8. Having heard learned Counsel for the petitioners and having perused the record, this Court is of the opinion that the ends of justice would stand served if direction for expeditious consideration of application (paper no.6-C) may be ordered.

9. Accordingly, this petition is disposed off by requiring Civil Judge (Junior Division), Court No.5, Gorakhpur, seized with the interim injunction application filed in Civil Suit No.1372 of 2020 (Smt. Malini Pandey Vs. Smt. Saroj Gupta) dated 5.11.2020 to take up the application on the next date fixed in the matter i.e. 20.12.2023 or within 3 weeks thereafter upon service of a certified copy of the order of this Court, in accordance with law.

10. Learned Counsel for the petitioner submits that the interim protection till disposal of application (paper no.6-C) may be directed. He has placed certain photographs of the land in dispute for perusal of the Court which show that certain constructions have been raised by the defendants/respondents.

11. Considering the fact that the defendants though had put in appearance in the proceedings and have not filed any objection to the interim injunction application, it is provided that till disposal of application (paper no.6-C) by the court below, the parties to the Suit shall maintain status-quo. It is made clear that status-quo order is being passed only till disposal of the interim injunction application by the trial court and all endeavour shall be made by the court below to pass appropriate order on the application (paper no.6-C) within the time frame fixed by the Court.

Order Date :- 4.12.2023

Irshad