

Court No. - 44

Case :- MATTERS UNDER ARTICLE 227 No. - 12699 of 2023

Petitioner :- M/S Rajendra Kumar Satyendra Kumar Cloth Merchant And Another

Respondent :- Sayeed Ahmad

Counsel for Petitioner :- Anil Kumar Tiwari

Hon'ble Ashutosh Srivastava,J.

1. Heard Shri Anil Kumar Tiwari , learned counsel for the petitioners.

2. Considering the nature of the order proposed to be passed notice upon the sole defendant -respondent is being dispensed with.

3. The Present petition, under Article 227 of the Constitution of India, has been filed for direction to the Civil Judge (Senior Judge), Meerut to decide the interim injunction application paper no. 6-C in Original Suit no. 1161 of 2023 (M/s Rajendra Kumar and another vs. Sayed Ahmad) within a time frame fixed by this Court.

4. Learned counsel for the petitioners submits that the petitioners are the lawful tenant of a shop since 1956 and are continuing the possession of the said shop and carrying out the business. They are tenants of the shop in question since the time of the father of the defendant -respondent and consequent to his death on 07.09.2000 the defendant -respondent has become the landlord. The defendant -respondent with the intent to evict the petitioners from the shop in question, began to demolish the part of the shop and under such circumstances, the petitioners are compelled to institute the suit being Suit No. 1161 of 2023 for the relief of permanent injunction with the plaint of the suit aforesaid, an application under Order 39 Rule 1 and 2 C.P.C. was filed which was registered as paper no. 6-C. The trial court vide order dated 09.10.2023 being of the view that the petitioners were not entitled for ex-parte injunction, issued notices to the defendant requiring his presence for consideration of the interim injunction application.

5. Learned counsel for the petitioners has invited the attention of this Court to the order-sheet of the proceedings to demonstrate that the defendant has put in appearance but no objections either to the

interim injunction application or written statement in response to the plaint has been filed. He submits that now the date fixed in the matter is 24.01.2024. It is further contended that even though the defendant has put in appearance but had not filed written statement or objections to the interim injunction application, yet he has threatened to demolish the shop and compelled the plaintiff-petitioners to vacate the shop in question, In these circumstances the direction for expeditious disposal of the interim injunction application paper no. 6-C is warranted.

6. I have heard learned counsel for the petitioners and have perused the record from the order-sheet of the proceedings which have been brought on record. It is no doubt sole defendant-respondent has put in appearance and despite time having been granted for filing objections and written statement on two occasions, the same has not been filed. It has been submitted at the Bar that now date fixed in the matter is 24.01.2024.

7. Considering the totality of the circumstances, this Court is of the view that the ends of justice would stands served if expeditious disposal of interim injunction application paper no. 6-C is directed. Accordingly the petition is disposed of by directing the Civil Judge (Senior Judge), Meerut seized with the interim injunction application (paper no. 6-C) in Original Suit no. 1161 of 2023 (M/s Rajendra Kumar and another vs. Sayed Ahmad) to consider and pass appropriate order on the said application within a period of three months from the date of production of certified copy of order of this Court, strictly in accordance with law, without giving unnecessary adjournments to either of the parties.

Order Date :- 11.12.2023

Bhanu