

Court No. - 4

Case :- MATTERS UNDER ARTICLE 227 No. - 12396 of 2023

Petitioner :- Kamla Devi

Respondent :- Shri Ram Khelawan And 8 Others

Counsel for Petitioner :- Rajesh Kumar Mishra

Hon'ble Prakash Padia,J.

1. Heard learned counsel for the petitioner and perused the record.
2. The petitioner has preferred the present petition inter-alia with the following prayer:-

"i) To issue an ad-interim injunction against the defendants-respondents as well as other subsequent purchasers/respondents, his heirs servants, and assignees restraining him from transferring or alienating the land in dispute describe in the plaint in relief Clause "Words "DA" i.e. plot No.10 area 0.9240 hectare, Plot 11-Ka area 0.5250 hectare and plot 9-Ka area 0.6280 hectare (Total area 2.0770 hectare) 1/4 share holder of the plaintiff-petitioner i.e. 0.5130 hectare situated in Mauza-Kapsa, Pargana Sikandra, Tehsil-Phoolpur, District-Allahabad" (now Prayagraj) and not to dispossess or create any hindrance of the possession of the plaintiff-petitioner over the land in dispute during pendency of the injunction application (paper No.6-C) U/O-39 Rule-1 of C.P.C. dated 12/08/2015 and affidavit filed by plaintiff-petitioner in support of suit.

ii) To issue further direction to the learned Civil Judge (Junior Division)/ Fast Track Court, Allahabad may also directed to decide the injunction application (Paper No.6-C) is still pending in Original Suit No. 2230 of 2015 (Ram Baran (since deceased) Versus Ram Khelawan and others.

iii) To issue further direction to the defendants-respondents not to disturb the peaceful possession of the plaintiff petitioner over the land in dispute during pendency of the injunction application;"

3. It reveals from perusal of the record that along-with the original suit filed in the year 2015, an application was also filed for interim protection under Order 39 Rule 1 of C.P.C. on 12.08.2015 in which a prayer has been made to restrain the defendants not to dispossess or create any hindrance on the possession of plaintiff-petitioner over the land in dispute. In paragraph-12 of the petition it is stated that after filing of the present petition the land in dispute has been sold and thereafter the subsequent purchaser are trying to dispossess the petitioner over the land in dispute described in the memo of plaint which is still pending before the court below.

4. If it is so, plaintiff-petitioner has a remedy to file a fresh application in this

regard in his pending suit.

5. In case such an application is filed in the court below before whom the aforesaid proceedings are pending within a period of **one week** from today, the court below is directed to decide the same most expeditiously and preferably within a period of **two weeks** thereafter.

6. It is further argued that injunction application being paper no.6-C is also pending consideration since 2015 and considerable time has already been lapsed but till date the same is still pending.

7. This Court has already directed all the subordinate courts to ensure disposal of interim injunction applications within six months failing which, they shall have to record reasons. The said direction was issued by the letter dated 16.8.2017 bearing No.CL No.24/Admn. G-II, dated Allahabad 16.8.2017 and same is quoted below:-

"From,

Mohd.Faiz Alam Khan, HJS,

Registrar General,

High Court of Judicature at Allahabad

To,

All the District & Sessions Judges,Subordinate to the High Court of Judicature at Allahabad.

C.L. No. 24/Admin. 'G-II' Dated: Allahabad 16.08.17

Sub: Time bound disposal of interim injunction application.

Madam/Sir,

Hon'ble Court has directed that all the subordinate courts must ensure to dispose of applications of interim injunction within six months, failing which they shall have to record reasons in the order-sheet. I am, therefore, directed to request you to circulate the instant direction amongst all the judicial Officers working under your supervision and control and to ensure strict compliance of the same in letter and spirit.

Your faithfully,

(Mohd. Faiz Alam Khan)

No. 9770/Admin. 'G-II' Dated: Allahabad 16.08.2017"

8. It is unfortunate that though vide circular dated 16.08.2017, a direction has been given by this Court to all the subordinate courts to ensure the disposal of the application for interim injunction within six months failing which they were directed to record reasons in the order sheet. From perusal of the facts of the aforesaid case, it is clear that more than 7 years has already been lapsed from the date of filing of injunction application till date no decision has been taken on the same.

9. In this view of the matter, the court below is further directed to decide the application being Application No. 6-C which was filed for the grant of interim protection, most expeditiously and without granting any unnecessary adjournment.

10. With the aforesaid observations, the petition is disposed of.

Order Date :- 5.12.2023

Swati