

Court No. - 44

Case :- MATTERS UNDER ARTICLE 227 No. - 12597 of 2023

Petitioner :- Jaan Mohammad

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Najam Uz Zaman Khan

Counsel for Respondent :- C.S.C.

Hon'ble Ashutosh Srivastava,J.

1. Heard Shri Najam Uz Zaman Khan, learned counsel for the petitioner, learned Standing Counsel Shri Om Prakash Tiwari has accepted notice on behalf of the State-respondent nos. 1 and 2.

2. Considering the nature of the order that is proposed to be passed, the notice upon the respondent no. 3 and 4 is being dispensed with.

3. The present petition under Article 227 of the Constitution of India has been filed for a direction to the learned Civil Judge (Senior Division), Aligarh to pass order on the interim injunction application filed in O.S. No. 193 of 2023 (Jaan Mohammad vs. State of U.P. and others) stated to be pending since 31.10.2023.

4. Learned counsel for the petitioner submits that the plaintiff-petitioner has instituted the suit no. 193 of 2023 for relief of permanent injunction and alongwith the said suit an application for temporary injunction has been filed, on which the trial court vide it's order dated 22.02.2023 issued notices to the defendants requiring their presence for response to the interim injunction application.

5. Learned counsel for the petitioner submits that though steps has been taken for effecting service upon the defendants, yet despite passage of almost ten months time, the defendants have not put in appearance and the disposal of the interim injunction application is unnecessarily being delayed. He submits that the property of the plaintiff has only been attached and part of the property which has already been demolished and there is a threat to demolish remaining part. In such circumstances, the expeditious consideration of the interim injunction application is warranted.

6. I have heard learned counsel for the petitioner and have perused

the record.

7. Considering the totality of the circumstances and the urgency as urged by learned counsel for the petitioner, the Court is of the opinion that the petition can be disposed off by directing the expeditious disposal of the interim injunction application of the petitioner which is stated to be pending since February 2023. Accordingly, the petition is disposed off by requiring the Civil Judge (Senior Division), Aligarh seized with the interim injunction application filed in O.S. No. 193 of 2023 to proceed and pass an appropriate order thereon, within two months from the date of service of certified copy of the order of this Court, in accordance with law.

Order Date :- 8.12.2023

Bhanu