

Court No. - 44

Case :- MATTERS UNDER ARTICLE 227 No. - 12500 of 2023

Petitioner :- Lalmani And Another

Respondent :- Radheyshyam And 7 Others

Counsel for Petitioner :- Anil Kumar Mishra

Hon'ble Ashutosh Srivastava,J.

1. Heard Sri Anil Kumar Mishra, learned counsel for the petitioners.
2. Considering the nature of the order that is 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 essentially for a direction to the Additional Civil Judge (Junior Division) Sarki, Room No. 5, Allahabad to expedite the disposal of the temporary injunction application (6-C) filed in Original Suit No. 4019 of 2023 (Lalmani & another vs. Radheyshyam & others).
4. Learned counsel for the petitioners submits that the Suit in question, filed for the relief of injunction in respect of Gata Nos. 566/48 area 0.1370 hectare, Gata No. 419 area 0.1140 hectare, Gata No. 394 area 0.0200 hectare, Gata No. 401 area 0.3740 hectare, Gata No. 533 area 0.4570 hectare situate in village Udaipur and also Gata No. 326 area 0.1150 situate in village Shahapur and Gata No. 74 area 0.2790 hectare situate in village Hemapur, Paragana- Sikandra, Tehsil- Phoolpur, District- Prayagraj. Learned counsel for the petitioners submits that along with the plaint of the Suit

for injunction, aforesaid application (6-C) seeking temporary injunction restraining the defendants from interfering in the possession and peaceful enjoyment of the aforesaid landed property has been sought. Learned counsel for the petitioners further submits that the Suit in question was instituted on 30.10.2023 and on the temporary injunction application the learned Additional Civil Judge (Junior Division) Room No. 5, Allahabad issued notices requiring appearance of the defendants to file objection to the interim injunction application being of the view that the plaintiffs are not entitled to ex parte injunction. Pursuant to the notices issued, the plaintiff-petitioners have also taken steps for effective service upon defendant-respondents. However, the defendants have not put in appearance till date and it has been submitted at Bar that now 10.01.2024 has been fixed for consideration of temporary injunction application. He submits that though all the defendants are local residents but they have yet not appeared in the proceedings and at the same time they are interfering in the peaceful possession of the petitioners over the land in dispute and have threatened to alienate the Suit property. He thus submits that this Court may expedite the disposal of 6-C application and in the meantime protect the interest of the petitioners.

5. I have heard learned counsel for the petitioners and have perused the record.

6. From the order-sheet of the proceedings brought on record, it is borne out that the trial court, while considering the 6-C application, was of the opinion that the plaintiffs are not entitled for the ex parte injunction prayed for and issued notices to the defendants requiring their presence. However, the defendants, despite passage of almost two months, have not put in appearance. According to the plaintiff-petitioners, the

matter has now been fixed on 10.01.2024 and there is constant threat for alienation of the Suit property by the defendants.

7. In the aforesaid circumstances, this Court is of the opinion that the petition can be disposed of by giving liberty to the petitioners to file an application before the Court, seized with the interim injunction application, within a week from today appraising it of the urgency in the matter and the threat faced by the petitioner/plaintiff of dispossession from the Suit property. In the event such an application is filed before the court below within the time allowed, the learned Additional Civil Judge (Junior Division) Court No. 5, Allahabad will apply its mind to the urgency pressed and considering the threat perspective prepone the date and pass appropriate orders on the interim injunction application, expeditiously, preferably on the next date fixed or within three weeks from the date fixed, in accordance with law.

8. With the aforesaid observation, the petition is disposed of.

Order Date :- 7.12.2023

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