

**Court No. - 44**

**Case :-** MATTERS UNDER ARTICLE 227 No. - 12675 of 2023

**Petitioner :-** Rameshwar Dayal

**Respondent :-** Smt. Tanu Chaudari And 2 Others

**Counsel for Petitioner :-** Prashant Sharma, Surendra Pratap Singh

**Hon'ble Ashutosh Srivastava, J.**

Heard Shri Prashant Sharma, learned counsel for the petitioner.

Considering the nature of the order that is proposed to be passed notice upon the defendant/ respondent nos. 1 to 3 is being dispensed with.

The present petition, under Article 227 of the Constitution of India, has been filed, for a direction to the Civil Judge (Senior Division) Hathras, to decide the interim injunction application, filed in Civil Suit No. 53 of 2023, Rameshwar Dayal vs. Pashupatinath Singh and others, within the time frame fixed by this Court.

Learned counsel for the petitioner submits that the suit in question has been filed by the plaintiff/petitioner for cancellation of the sale deed and for injunction. Along with the said plaint of the aforesaid suit, an application seeking temporary injunction has also been filed restraining the defendants from interfering in the possession of the beneficial enjoyment of the suit property. The trial Court vide order dated 16.02.2023, being of the view that ex parte injunction, in favour of the plaintiff, is not likely to be granted, issued notices on the defendants requiring their presence in the proceedings. He further submits that by order dated 19.07.2023 all the defendants have put in appearance by filing their respective Vakalatnama and thereafter time has been granted to them for filing written statement. However, despite time having been granted, no written statement or any other objections, to the temporary injunction has been filed.

He further submits that during the pendency of the proceedings and particularly pendency of the application for interim injunction, the defendants have executed a sale deed on 30.09.2023 and there is a constant threat of further alienation by the defendants. In these circumstances, learned counsel for the petitioner submits that the expeditious disposal of the interim injunction application, which is

pending consideration, may be directed.

Learned counsel for the petitioner has further argued that though the sale deed was executed on 30.09.2023 but the petitioner is still in possession of the subject matter of the sale deed dated 30.09.2023. He further submits that there is a constant threat of dispossession of the plaintiff from the suit property.

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

From perusal of the order sheet of the proceedings, that has been brought on record, as annexure no. 1 to the petition, it is borne out that by order dated 19.07.2023, all the defendants have put in appearance in the proceedings and time has been granted for filing written statement and now learned counsel for the petitioner submits that 8th January, 2024 has been fixed in the matter.

Considering the urgency, as pressed by the learned counsel for the petitioner, and taking note of the fact that the defendants even after putting appearance in the proceedings have proceeded to execute a sale deed on 30.09.2023 in order to frustrate the suit, the Court is of the opinion that the ends of justice would stand served, if directions for expeditious disposal of the interim injunction application is ordered.

Accordingly, the petition is ***disposed off*** by directing the Civil Judge (Senior Division) Hathras, seized with the interim injunction application, filed by the petitioner in Civil Suit No. 53 of 2023, Rameshwar Dayal vs. Pashupatinath Singh and others, to consider and pass appropriate order thereon, upon the date fixed in the matter i.e. 8th January, 2024 or within two weeks from the date fixed, of the service of certified copy of the order of this Court, in accordance with law, without granting unnecessary adjournment to either of the parties.

It is further provided that till the consideration of the Interim Injunction Application, as directed by this Court, status quo shall be maintained by the parties, in respect to the suit property.

**Order Date :- 11.12.2023**

Deepak/