

Court No. - 44

Case :- MATTERS UNDER ARTICLE 227 No. - 12637 of 2023

Petitioner :- Smt. Chitra

Respondent :- Smt. Bala And 6 Others

Counsel for Petitioner :- Ramesh Kumar Pandey

Hon'ble Ashutosh Srivastava,J.

Heard Shri Ramesh Kumar Pandey, learned counsel for the petitioner.

Considering the nature of the order that is proposed to be passed notice upon the respondent nos. 1 to 7 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)/ Fast Track Court, Ghaziabad, to decide the Misc. Case No. 9 of 2020, filed under Order 39 rule 2A CPC in Original Suit No. 964 of 2016 (Smt. Chitra and others vs. Smt. Bala and others), within a time frame fixed by this Court.

Learned counsel for the petitioner submits that the petitioner is a plaintiff in the suit in question which has been filed for permanent injunction. The Trial Court vide its order dated 15.03.2017 passed an interim injunction order directing the parties to the suit to maintain status quo, in respect of the disputed Building/ House No. 166, situate at Khasra No. 143M, Village Mawai, Pargana Loni, Tehsil and District-Ghaziabad and further restraining the parties from creating any third party rights in respect thereof. He further submits that the defendants/ respondents in violation of the aforesaid order dated 15.03.2017 executed a sale deed on 01.09.2020 and in such circumstances an application under Order 39 rule 2A CPC has been filed by the plaintiff/petitioner on 25.09.2020. The defendants/ respondents though have put in appearance in the said proceedings but has not filed any objection to the said application. He submits that the application is pending since 25.09.2020 and in such circumstances, a direction for expeditious disposal of the application under Order 39 Rule 2A CPC is warranted.

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

From the order sheet of the proceedings, brought on record as annexure no. 4 to the petition, it is borne out that the application under Order 39 Rule 2A, registered as Misc. Case No. 9 of 2020 is pending consideration since 25.09.2020. Though the defendants/respondents have put in appearance in the said proceedings but the order sheet reveals that no objection has yet been filed and unnecessarily dates are being fixed.

Considering the totality of of the circumstances and taking note of the fact that the application under Order 39 rule 2A, registered as Misc. Case No. 9 of 2020, is pending consideration since 25.09.2020, the ends of justice would stand subserved if directions for expeditious disposal of the said proceeding is issued.

Accordingly, the petition is ***disposed off*** by directing the Civil Judge (Senior Division)/ Fast Track Court, Ghaziabad, in seisin of the proceedings of the Misc. Case No. 9 of 2020, filed under Order 39 Rule 2A CPC in Original Suit No. 964 of 2016 (Smt. Chitra and others vs. Smt. Bala and others), to conclude and decide the same, expeditiously, preferably, within a period of ***two months*** from the date of service of certified copy of the order of this Court, in accordance with law, without granting unnecessary adjournments to either of the parties.

Order Date :- 15.12.2023

Deepak/