

Court No. - 44

Case :- MATTERS UNDER ARTICLE 227 No. - 12681 of 2023

Petitioner :- Yudhveer Singh And 2 Others

Respondent :- State Of U.P. And 9 Others

Counsel for Petitioner :- Adil Jamal,Shabeh Jamal

Counsel for Respondent :- C.S.C.,Suresh Singh

Hon'ble Ashutosh Srivastava,J.

1. Heard Shri Adil Jamal, learned counsel for the petitioners and Shri Akhileshwar Singh, learned Addl. Chief Standing Counsel for the State-respondent Nos. 1 to 4.

2. Considering the nature of the order 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 for setting aside the order dated 23.11.2023 passed by the District Judge, Moradabad in Misc. Civil Appeal No. 68 of 2023 (Yudhveer Singh and others versus State of U.P. and others) whereby and whereunder the learned District Judge has issued notices to the respondents in appeal requiring their presence for consideration of interim injunction application (6C) filed along with memo of appeal on 22.12.2023.

4. It is the case of the petitioners that they have filed a suit, being Suit No. 1852 of 2023 (Yudhveer Singh and others versus State of U.P. and others) claiming a relief of permanent injunction against the defendants restraining them from erecting the water tank over Arazi No. 103. Under the garb of erecting the said water tank, not to encroach Arazi No. 130 and 150 or any part thereof and not to interfere in the peaceful possession of the petitioners over the said plots. Along with the plaint of the aforesaid suit the petitioners had preferred an application for interim injunction. The said application (paper No. 6C) has been rejected by the Court below vide order dated 9.11.2023 against which the petitioners have filed the misc. appeal and have also filed an application for interim injunction which has now been fixed for its consideration on 22.12.2023.

5. Learned counsel for the petitioner submits that purpose of filing present petition shall stands served if appropriate directions are

issued to the District Judge, Moradabad seized with the Misc. Civil Appeal No. 68 of 2023 (Yudhveer Singh and others versus State of U.P. and others) as well as interim relief application filed along with the memo of appeal to pass appropriate orders on the date fixed in the matter i.e. 22.12.2023. He submits that under the garb of erecting the water tank over Arazi No. 103, respondents are encroaching upon the Bhumidhari land of the petitioners contained in Arazi No. 130 and 150 and, therefore, a direction for expeditious disposal of the interim relief application filed along with the memo of appeal is warranted.

6. I have heard learned counsel for the parties and have perused the record.

7. From the impugned order dated 23.11.2023, it is borne out that the Misc. Appeal has been preferred assailing the order dated 9.11.2023 rejecting the interim injunction application filed by the petitioners in their suit, being Suit No. 1852 of 2023 (Yudhveer Singh and others versus State of U.P. and others). The appeal preferred by the petitioners is yet to be admitted and notices have been issued to the respondent Nos. 2 to 10 therein and the appeal itself has been fixed for 22.12.2023 for hearing and for consideration of interim relief application.

8. In the opinion of the Court, ends of justice stand sub served, if directions are issued to the District Judge, Moradabad to pass appropriate orders on the pending application for interim relief on the date fixed.

9. Accordingly, the petition is ***disposed of*** by requiring the District Judge, Moradabad, seized with the Misc. Civil Appeal No. 68 of 2023 (Yudhveer Singh and others versus State of U.P. and others) as well as interim relief application filed along with the memo of the appeal to pass appropriate orders on the date fixed i.e. 22.12.2023 or within two weeks from the date fixed upon service of certified copy of order of this Court, strictly in accordance with law.

Order Date :- 11.12.2023

Ravi Prakash

(Ashutosh Srivastava, J.)