

Court No. - 44

Case :- MATTERS UNDER ARTICLE 227 No. - 12684 of 2023

Petitioner :- Shivkanya @ Radha Devi

Respondent :- Indrani And 3 Others

Counsel for Petitioner :- Dinesh Mishra

Hon'ble Ashutosh Srivastava,J.

Heard Shri Dinesh Mishra, learned counsel for the petitioner.

Considering the nature of the order that is proposed to be passed, the service of notice upon respondent is being dispensed with.

The present petition under Article 227 of the Constitution of India has been filed to direct the Civil Judge (Jr.Div.), Kaushambi to expedite the disposal of the interim injunction application (6C) under Order 39 Rule 1 & 2 CPC filed in Case No. 341 of 2017 (Shivkanya @ Radha Devi versus Indrani and others) within the time frame fixed by this Court.

Learned counsel for the petitioner submits that the suit in question has been filed for cancellation of sale deed dated 19.9.2012. Along with the plaint of the aforesaid suit, an application seeking interim injunction to restrain the defendants from interfering in the possession and enjoyment of the disputed land was also filed, which was registered as Paper No. 6C. The trial court vide order dated 1.5.2017 issued notices to the defendants requiring their presence for consideration of the 6C application. Thereafter, various dates were fixed for disposal of 6C application. However, the same was not considered because the defendants had not put in appearance.

Learned counsel for the petitioner submits that since the very institution of the suit in the year 2017, the proceedings are pending for filing of the written statement and even after expiry of 6 years, the defendants have not put in appearance and the interim injunction application of the petitioner is not being considered. He submits that there is constant threat at the hands of the defendants to dispossess the plaintiff's suit property and in such circumstances, a direction for expeditious consideration of interim injunction application (Paper No. 6C) is warranted.

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

From the order-sheet which has been brought on record as Annexure-3 to the petition, it is borne out that the suit was instituted on 1.5.2017 on which date, Court below had issued notices to the defendants requiring their presence. Thereafter, till 22.9.2023 the suit has been pending for filing of written statement and for consideration of interim injunction application.

In the opinion of the Court, it is a fit case in which direction for expeditious disposal of the interim injunction application may be ordered.

Accordingly, the petition is ***disposed of*** by requiring the Civil Judge (Jr.Div.), Kaushambi, seized with the interim injunction application (6C), filed in Case No. 341 of 2017 (Shivkanya @ Radha Devi versus Indrani and others) stated to be pending since 1.5.2017, to conclude and decide the same expeditiously preferably ***on the next date fixed i.e. 15.1.2024*** or within a period of ***three 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.)