

Court No. - 21

Case :- WRIT - C No. - 1002463 of 2001

Petitioner :- Mrs. Sudha Singh

Respondent :- District Judge Gonda And Others

Counsel for Petitioner :- D.P. Singh

Counsel for Respondent :- C.S.C.

Hon'ble Dinesh Pathak,J.

1. Instant writ petition is arising out of interim injunction application under Order 39 Rule 1 CPC.

2. Facts culled out from the averments made in the writ petition are that Fasi-ur-Rehman alias Munnan Khan (respondent No. 3) has filed suit for permanent prohibitory injunction being OS No. 7178 of 2001. Along with suit, the plaintiff has moved an interim injunction application (paper No. C2/4) under Order 39 Rule 1 CPC. The trial court, vide order dated 31.5.2001, has allowed the interim injunction application. Having been aggrieved, defendants have preferred an appeal which was ordered to be admitted and notices were ordered to be issued by order under challenge dated 6.6.2001. For ready reference, the order dated 6.6.2001 is quoted hereinbelow:-

"Admit.

Issue notice to opposite party.

Summon the file.

Put up on 9.7.2001."

3. Perusal of the impugned order dated 6.6.2001 reveals that nothing has been decided finally with respect to the right and title of the parties over the property in question. Simply, an order admitting the appeal has been passed and notices were ordered to be issued to the respondents while admitting the appeal arising out of order passed in interim injunction application under Order 39 Rule 1 CPC which does not give rise to any cause of action. The present petitioner was the appellant No. 4 in the memo of appeal before the appellate court. It appears that all the four defendants have preferred appeal assailing the order dated 31.5.2001, however, the instant writ petition has been filed only on behalf of Smt. Sudha Rani (appellant No. 4 in the memo of appeal).

4. I did not find any irregularity, perversity or ambiguity in the order impugned passed by the appellate court to entertain the instant petition in exercise of extraordinary jurisdiction under Article 226 of the Constitution of India. There is nothing on record to demonstrate as to how the petitioner is prejudiced, or if there is any likelihood of causing miscarriage of justice to the petitioner, due the order under challenge.

5. Resultantly, instant writ petition, being misconceived and devoid of merits, is dismissed with no order as to the costs.

Order Date :- 29.5.2023

vinay