

Court No. - 17

Case :- WRIT - C No. - 1000945 of 2008

Petitioner :- Mohd. Usman

Respondent :- Additional District Judge Kheri And 4 Ors.

Counsel for Petitioner :- Mohd. Adil Khan, Mohammad Aslam Khan

Counsel for Respondent :- C.S.C., Ayush Chaudhary, Rajesh Shukla, Rakesh Kumar Chaudhary, S.P. Shukla, Tanveer Ahmad Siddiqui

Hon'ble Alok Mathur, J.

1. Heard Sri Mohd. Arif Khan, learned Senior Advocate assisted by Sri Mohammad Aslam Khan, learned counsel for the petitioner as well as Sri Rakesh Kumar Chaudhary, learned counsel appearing for respondent nos. 3 and 4.

2. By means of present writ petition the petitioner has challenged the order dated 24.02.2006, passed by the Additional Civil Judge (Senior Division), Kheri thereby rejecting the application for impleadment preferred by the petitioner as well as order dated 16.02.2008, passed by the Additional District Judge, Court No. 2, Kheri whereby the revision preferred by the petitioner against order dated 24.02.2006, has been dismissed.

3. It has been submitted by learned counsel for the petitioner that a suit for possession and permanent injunction was filed by respondent nos. 3 and 4 against respondent no. 5 with regard to property situated at Plot No. 831, area 0.69 dismil, Mauja -Lakhimpur. It is stated that respondent nos. 3 and 4 were predecessor in interest and bhoomidhari of the said land. The said suit was filed for possession and permanent injunction.

4. It is further submitted by learned counsel for the petitioner that the said suit was numbered as Suit No. 205 of 1991, which was filed in the Court of Additional Civil Judge, Senior Division, Lakhimpur Kheri. It is submitted that the petitioner was also granted patta on Plot No. 831 and on the basis of said patta he had claimed possession over the said plot and consequently, he had filed Regular Suit No. 84 of 1998 before the same Court i.e. the Court of Civil Judge, Senior Division, Lakhimpur Kheri. It is stated that the said suit was filed against respondent nos. 3, 4 and 5 (respondents in the present writ petition) as well as two other persons.

5. In the light of the fact that both the suits were with regard to plot no. 831, the petitioner filed an application for impleadment in Suit No. 205 of 1991. The application for impleadment of the petitioner was duly considered by the Trial Court and was rejected on the ground that rights which are claimed by the petitioner would be adequately considered and decided in the suit filed by the petitioner and the Court was not satisfied that petitioner is necessary party in the suit preferred by respondent nos. 3 and 4. The petitioner had subsequently filed revision against the said rejection of impleadment application, the said revision has also been dismissed by the Court of Additional District Judge.

6. This Court after hearing the parties and going through the record notices that the controversy raised in both the suits namely Suit No. 84 of 1998 preferred by the petitioner against respondent nos. 3, 4 and 5 apart from two others as well as Suit No. 205 of 1991, preferred by respondent nos. 3 and 4, pertain to the property situated at Plot No. 831, area 0.69 dismil, Mauja -Lakhimpur.

7. It has been pointed out that as per provisions of Order IV-A of C.P.C., provides for consolidation of suits and proceedings, wherein it has been provided that where two or more suits or proceedings are pending in the same Court, then the Court may direct joint trial or consolidate the said suits whereupon all the suits and proceedings can be decided together.

8. Learned counsel for the parties do not dispute the fact that lis raised in both the suits pertains to same property being Plot No. 831, area 0.69 dismil, Mauja -Lakhimpur, where they have disputed claims of each other in their respective suits and in the light of the above, this Court is of the considered view that considering the issues raised in both the suits, they should be decided together rather than they being decided separately thereby inviting difference in findings and conflicting orders.

9. The counsel for the petitioner submits that the grievance of the petitioner shall be substantially redressed in case both the suits are clubbed and decided together.

10. In the light of above, and without entering into the merits of the case, in the light of provisions of Order IV-A of C.P.C. present writ petition is **disposed of** with direction to the Court concerned to club Suit No. 84 of 1998 and Suit No. 205 of 1991 and decide them together. Considering the fact that the suits are pending for considerable length of time, hence the trial Court is directed to make endeavour to decide them expeditiously, say within a period of eight months from the date of production of

certified copy of this order, in case there is no other legal impediment.

11. The parties who are present Court undertake to cooperate in the proceedings and will not seek any unnecessary adjournments.

Order Date :- 2.11.2023

A. Verma

(Alok Mathur, J.)