

Court No. - 3

Case :- MATTERS UNDER ARTICLE 227 No. - 3312 of 2023

Petitioner :- Swami Dayal Tiwari And 2 Others

Respondent :- Rajendra Prasad And 3 Others

Counsel for Petitioner :- Ashutosh Mishra

Counsel for Respondent :- C.S.C.

Hon'ble Subhash Chandra Sharma,J.

Heard learned counsel for petitioners, learned C.S.C. for State and perused the record.

This petition has been filed by the petitioners with prayer to issue an order or direction to set aside the impugned order dated 6.6.2023 passed by Civil Judge (Senior Division) Room No. 15 Sultanpur in Misc. Case No. 67 of 2023.

It is submitted that in this case Regular Suit No. 602 of 2021 was filed by the petitioners against the opposite party in which order for status quo was passed on 18.10.2022. In the meantime, opposite party tried to disturb the nature of the property as a result an application for the same was filed before the learned court regarding which permission was sought and it was rejected by learned learned court while observing that the petitioners are not parties in the regular suit and they have not been substituted as party till now. Sub-Divisional Magistrate Tehsil Musafirkhana, District Amethi has also been proposed to be implicated as party though he was not the party in the regular suit. In view of the circumstances of the case an application for granting permission to file an application u/s 10 Contempt of Court Act was rejected against which the present petition was filed.

Learned C.S.C. opposed the prayer and urged that there was order for status quo passed by learned court concerned which was in the knowledge of the opposite party. There is alternative remedy available to the petitioners under order 39 rule 2A C.P.C. regarding which he may have option to move an application before the learned court during pendency of the case which will be heard and decided on merit by the learned court on the basis of material on record. In this way, there is no any illegality or irregularity in the order passed by the learned Civil Judge.

On considering the facts and circumstances of the case,

submissions made by learned counsel for petitioners as well as learned C.S.C, it appears that order for status quo was passed by the learned Civil Judge and there is allegation of making interference in the nature of the property on the part on the opposite party regarding which remedy is available to the petitioners under order 39 rule 2A C.P.C., therefore, there appears no any illegality or irregularity in the order dated 6.6.2023 passed by learned Civil Judge as a result this petition being devoid of merit is hereby ***dismissed*** with direction to the petitioners to file such an application before the learned trial court which will be heard and decided by the learned court as expeditiously as possible in accordance with law.

Order Date :- 26.6.2023

A. Singh