

Court No. - 8

Case :- MATTERS UNDER ARTICLE 227 No. - 3999 of 2023

Petitioner :- Vijay Pandey And 2 Others

Respondent :- Naresh Chandra Agrawal

Counsel for Petitioner :- Mahendra Pratap Singh, Abhishek Dwivedi, Ranjit Singh

Counsel for Respondent :- Anurag Narain Srivastava, Pawan Kumar Verma

Hon'ble Ajay Bhanot, J.

Heard Shri Mahendra Pratap Singh, learned counsel assisted by Shri Ranjit Singh, learned counsel for the petitioners and Shri Shailendra Mishra, learned counsel holding brief of Shri Anurag Narain Srivastava, learned counsel for the opposite party.

There is prima facie merit in the submission of Shri Shailendra Mishra, learned counsel holding brief of Shri Anurag Narain Srivastava, learned counsel for the opposite party that the jurisdiction under Article 227 of the Constitution of India can be invoked only under extraordinary circumstances.

This is not a regular appeal. The judgments by the learned courts below have been rendered upon due consideration of the materials and evidences in the record. There is no perversity in the findings .

After some argument, Shri Mahendra Pratap Singh, learned counsel assisted by Shri Ranjit Singh, learned counsel for the petitioners submits that the petitioners do not wish to press the petition under Article 227 of

the Constitution of India. The petitioners undertake unconditionally to vacate the premises of the disputed shop and make over the vacant and peaceful possession of the shop to the opposite party. However, the only prayer is for grant of additional time to vacate the premises since they have to relocate the arms and ammunitions stored in the arms shop at a secure place.

Shri Shailendra Mishra, learned counsel holding brief of Shri Anurag Narain Srivastava, learned counsel for the opposite party does not have any objection to the aforesaid prayer.

No useful purpose would be served by keeping the petition pending.

The petition is disposed of with the following directions:

I. The petitioners shall unconditionally vacate the premises of the disputed shop and make over peaceful and vacant possession of the disputed shop to the opposite party on or before 10.02.2024.

II. The petitioners shall forthwith make an application (with the applicant) giving the undertaking before the learned executing court that peaceful and vacant possession of the disputed shop will be made over to the opposite party on or before 10.02.2024.

III. After possession is made over to the opposite party, the petitioners shall make an application before the learned executing court to this effect. The learned

executing court shall independently record its satisfaction regarding the same.

IV. In case the vacant possession of the disputed premises is not made over to the opposite party on or before 10.02.2024, the opposite party shall make an application to this effect before the learned executing court on 12.02.2024.

V. The learned executing court shall upon receipt of such application forthwith direct the police authorities with court staff to evict the petitioners and all their possessions from the premises and make over the vacant possession of the disputed premises to the opposite party.

VI. The Superintendent of Police, Hardoi is directed to ensure that the appropriate police force is made available for compliance of the order of this Court.

VII. The execution of the above premises shall be overseen by the learned executing court and a compliance report shall be sent by the learned executing court before the registry of this Court on or before 17.02.2024.

VIII. The execution proceedings being P.A. Execution Case No.05 of 2023 (Naresh Chandra Agrawal v. Vijay Pandey) shall remain stayed till 10.02.2024.

Order Date :- 8.8.2023

Ashish Tripathi