

Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 8253 of 2023

Petitioner :- Irfanullah And Another

Respondent :- State Of U.P. Thru. Prin. Secy. Home Deptt. Govt. Civil Sectr. Lko. And Others

Counsel for Petitioner :- Mohd. Waris Farooqui

Counsel for Respondent :- G. A.

Hon'ble Mrs. Sangeeta Chandra,J.

Hon'ble Narendra Kumar Johari,J.

Heard learned counsel for the petitioner, learned A.G.A. for the State-respondents and Sri Vimal Shukla, who has filed power on behalf of the opposite party no. 4.

This petition has been filed praying the following reliefs:-

(a) Issue a writ, order or direction in the nature of certiorari thereby quashing the impugned first information dated 13.10.2023, vide case crime no. 304 of 2023 under Sections 419, 420, 467, 468, 471, 504 and 506 IP.C., lodged at Police Station- Kotwali Utraula, District- Balrampur as contained in Annexure-1 to this writ petition.

(b) Issue a writ, order or direction in the nature of mandamus commanding the opposite party not to harass, detain or prosecute the petitioner in pursuance of the impugned F.I.R.

It has been submitted by the learned counsel for the petitioners that the petitioner no. 1 had purchased the house of the opposite party no. 4 from her husband namely, Late Mohammad Jameel and Late Nawab Abdul Quddus through a sale dated 20.9.2010. Late Mohammad Jameel had in-fact sold of the property to Late Nawab Abdul Quddus on 20.9.2010 and the petitioner got the property from Late Nawab Abdul Quddus on the same date i.e. 20.9.2010. Copy of the sale deed has been filed as Annexure-2 to the writ petition. The petitioner started living in the house along with their children and also started depositing house tax and bill of electricity connection in their favour.

After the death of her husband, the opposite party no. 4 started interfering in the peaceful possession of the petitioners and petitioner no. 1 had filed declaratory suit before Civil Judge, Junior Division Utraula, Balrampur for declaration of title of

the said house in favour of the petitioner no. 1. A copy of the complaint in Regular Suit No. 421 of 2023 (Irfanullah Vs. Sajida Khatoon) has been filed as annexure-8 to the writ petition. During the pendency of the declaration suit, the impugned F.I.R. has been lodged alleging that the petitioner has taken over the house of the opposite party no. 4 and her husband forcibly and are not returning the same and allegedly also a got sale deed made out in their favour with respect to the said house.

The counsel for the opposite party no. 4 has pointed out the Annexure-2 to the writ petition, which is only a typed declaration made on stamp paper of Rs. 10/- by Rahmat Ullan and Irfanullah saying that the husband of the petitioner had sold of the property in question to Abdul Quddus for Rs. 4 lacs and from Abdul Quddus the property has been purchased by the petitioners for Rs. 4.75 lacs.

It has been submitted that such declaration/ statement on a non judicial stamp paper of Rs. 10 valuation cannot be said to be sale deed. It is a forged document, that has been made out only to grab the property of the opposite party no. 4, who is widow, therefore, the impugned F.I.R. has been lodged.

The Court having perused the impugned F.I.R. finds no ground to show interference.

The writ petition is, accordingly, **dismissed**.

Order Date :- 2.11.2023

Anuj Singh