

Court No. - 18

Case :- MATTERS UNDER ARTICLE 227 No. - 5780 of 2023

Petitioner :- Mohd. Nadeem Khan

Respondent :- The Court Of Civil Judge (J.D.) Court No. 13, Barabanki And 4 Others

Counsel for Petitioner :- Santosh Kumar Yadav

Counsel for Respondent :- C.S.C.,Puneet Chandra

Hon'ble Saurabh Lavania,J.

Heard I.P. Singh, Advocate, assisted by Shri Santosh Kumar Yadav and Shri Puneet Chandra, learned counsel for the opposite party No.2 and Shri Tejbali Singh, learned counsel appearing for the State Respondents.

The present petition has been filed with the following prayer:-

"(i) To direct the opposite party no.1 to decide the Interim Relief Application for Temporary Injunction under rule 1 of Order XXXIX read with section 151 Civil Procedure Code in Original Suit No. 1305/2023(Mohd. Nadeem Khan Vs. Executive Engineer and Ors.), which is pending since 20.10.2023, (which is annexed as Annexure No.4 to this petition), within stipulated time period expeditiously, in the interest of justice."

In regard to the main prayer sought, it is stated by the learned counsel for the petitioner that officials of the Awas Vikas are adamant to disturb the peaceful possession of the petitioner, as such, in compelling circumstances, the petitioner has approached this Court for the main relief sought.

Shri Puneet Chandra, learned counsel for the opposite party No.2 says that the suit itself is not maintainable in view of non compliance of mandatory provisions regarding notice, as indicated, under Section 88 of U.P. Awas Vikas Parishad Adhiniyam,1965 (in short "Act of 1965").

Be that as it may, the application under Section Order 39 Rule 1 and 2 read with Section 151 CPC is pending and the case is fixed for 27.11.2023 and the same has to be disposed of.

Considering the aforesaid, the present petition is disposed of with direction to opposite party No.1-The Court of Civil Judge (J.D.), Court No.13, District-Barabanki to consider and dispose of the application preferred by the petition under Order 39 Rule 1 and 2 CPC as per law in terms of the circular of this Court i.e. Circular Letter No.CL No.24/Admin. G-II, dated 16.08.2017.

It is open for the concerned/defendants to raise/file the objections, as may be available, including with regard to maintainability of suit. In case the objections are filed, the same shall be considered by the Trial Court while considering the prayer for interim protection as prayed for by the petitioner.

Order Date :- 8.11.2023

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