

Court No. - 12

Case :- APPLICATION U/S 482 No. - 11350 of 2023

Applicant :- Shahab Ahmad And Another

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Lko. And 4 Others

Counsel for Applicant :- Amrendra Kumar

Counsel for Opposite Party :- G.A., Arun Pratap Singh, Ripu Daman Shahi

Hon'ble Rajeev Singh, J.

1. Heard Shri Amrendra Kumar, learned counsel for the applicants, learned A.G.A. and Shri R.D. Shahi, learned counsel appearing for respondent no. 2.

2. On 20.11.2023, following order was passed.

"1. Heard learned counsel for the applicants as well as learned A.G.A. for the State.

2. The present application has been filed for quashing the operation of impugned order dated 18.10.2023 and for directing respondent no.2 not to harass applicants bearing Complaint Case No.220 of 2015 U/s 12 of D.V. Act, Police Station- Bazaar Khala, District- Lucknow.

3. Learned counsel for the applicants submits that marriage of Shakeel Ahmad was solemnised with respondent no.3 and out of their wedlock, two children were born, thereafter, he entered into another marriage with someone else and in the meantime, he died. He further submits that only with the intention to victimize family members of Shakeel Ahmad, plaint U/s 12 of D.V. Act was filed. It is, thus, submitted that there is possibility of settlement of dispute, in case, the matter is sent for mediation in Mediation and Conciliation Centre of this Court.

4. Learned A.G.A. opposes the prayer of applicants and submits that there is some family dispute between the parties and respondent no.3 is widow of Shakeel Ahmad who is real brother of applicant no.1.

5. Considering the submissions of learned counsel for the applicants, learned A.G.A. and going through the contents of application as well as other relevant documents; it is evident from the record that there is some family dispute between the parties and respondent no.3 is widow of Shakeel Ahmad who is real brother of applicant no.1, hence, possibility of settlement of dispute cannot be ruled out.

6. List this case on 12.12.2023.

7. On the next date, applicants and respondent no.3- Smt. Imrana w/o late Shakeel Ahmad r/o House No.266/811 Bhadeva, thather wali gali, Bazaar Khala, Police Station- Bazaar Khala, District- Lucknow shall appear in person before this Court.

8. Station House Officer, Police Station- Bazaar Khala, Lucknow is directed to ensure the presence of respondent no.3 before this Court on the next date of listing.

9. Till the next date of listing, no coercive action shall be taken against applicants.

10. Applicants are directed to deposit Rs.50,000/- before Senior Registrar of this Court within ten days from today, failing which, interim protection will not be available to them."

3. In pursuance of the aforesaid order, applicant no. 1 as well as respondent no. 3 are present before this Court and have been duly identified by their respective counsel.

Mr. Neeraj Yadav, Sub-Inspector as well as Lady Constable, Ms. Meenakshi, P.S. Bazar Khala, District Lucknow are also present.

4. It is admitted by the learned counsel for the parties that against the impugned order dated 18.10.2023, which was passed on the application of the applicant bearing No. A-6/47 for recall of the ex parte order dated 19.02.2014, an appeal has already been preferred by the applicants before District & Sessions Judge, Lucknow under Section 29 of Protection of Women from Domestic Violence Act, which is registered as Criminal Appeal No. 254 of 2023 (Shadab Ahmad & Anr. Vs. State & Ors.), which was admitted on 27.10.2023. It is also admitted by the learned counsel for the respondent that she has put in appearance in the aforesaid appeal.

5. Learned counsel for the applicants submits that there is no Hibanama in relation to property in question, i.e., House No. 266/811, Thatheri vali Gali, Bazar Khala, Lucknow.

6. The Hibanama, which has been produced by Shri R.D. Shahi, learned counsel appearing for respondent no. 2, reveals that it does not belong to property in question and it is belonged to the property having area of 2000 sq. ft. situated at Village Begariya Dubagga, Kanhaiya Lal, Madhaupur ward, Lucknow.

7. However, in view of the undisputed fact that an appeal is already pending before the appellate authority against the impugned order, the present application is liable to be

dismissed and is hereby dismissed.

8. However, it is open to the parties to pursue the aforesaid appeal before the appellate court. The appellate authority is also directed to decide the appeal expeditiously without granting any unnecessary adjournment to either of the parties.

Order Date :- 12.12.2023

VKS