

Court No. - 6

Case :- MATTERS UNDER ARTICLE 227 No. - 5950 of 2023

Petitioner :- Ram Kewal

Respondent :- Civil Judge (J.D.) Kadipur Distt. Sultanpur And Another

Counsel for Petitioner :- J.P. Shukla

Hon'ble Rajnish Kumar,J.

Heard, Shri Dushyant Singh, Advocate holding brief of Shri J.P. Shukla, learned counsel for the petitioner.

The respondent no.1 is the court concerned.

Considering the nature of order proposed to be passed issuance of notice to opposite party no.2 is dispensed with.

Learned counsel for the petitioner submits that the petitioner has filed an application under Order 39 Rule 4 CPC for recall of the exparte interim injunction order dated 01.08.2019. The application was filed on 25.10.2019, but till date neither the same has been disposed of nor the application under Order 39 Rule 1 and 2 CPC filed by the defendant alongwith the Original Suit No.247 of 2019; Surendra Pratap Versus Ram Kewal has been disposed of till date. Therefore he makes a prayer for a direction for disposal of the application within some stipulated period.

However perusal of the order sheet does not indicate that the petitioner is pursuing his application and it also appears that the petitioner has also not filed written statement till date, whereas several opportunities have been granted to him. However in case the application under Order 39 Rule 4 CPC for vacation of the interim injunction passed on the application under Order 39 Rule 1 and 2 CPC, which was filed alongwith the Original Suit, is not disposed of, the same is required to be disposed of.

In view of above, without entering into the merit of the case the

petition is **disposed of** with liberty to the petitioner to move an appropriate application before the concerned court for expeditious disposal of his application filed under Order 39 Rule 4 CPC and the application under Order 39 Rule 1 and 2 CPC filed by the respondent alongwith the Original Suit. If any such application is moved by the next date fixed, which is said to be 06.12.2023, the same shall be considered by the concerned court on the date fixed or within a period of ten days thereafter and pass appropriate orders thereon and proceed accordingly as per law.

(Rajnish Kumar,J.)

Order Date :- 23.11.2023

Banswar