

Court No. - 17

Case :- WRIT - C No. - 10677 of 2023

Petitioner :- Balveer

Respondent :- State Of U.P. Thru. District Magistrate, Hardoi And 2 Others

Counsel for Petitioner :- Arunendra Nath Mishra, Prashant Srivastava

Counsel for Respondent :- C.S.C.

Hon'ble Alok Mathur, J.

Heard Shri Arunendra Nath Mishra, learned counsel for the petitioner and learned Standing Counsel appearing on behalf of respondent no.1.

In light of the order proposed order notice to respondents no.2 and 3 are dispensed with.

It has been submitted by the learned counsel for the petitioner that the respondent no.2 has filed a suit for specific performance against the petitioner which was registered as case no.17/1996. The case was decreed in favour of the plaintiff/ opposite party no.2 on 27.4.2000. Against the decree and order dated 27.4.2000 the defendants had filed a first appeal no.26 of 2000 before the District Judge, Hardoi which was also dismissed. Against the rejection order a second appeal has been preferred being second appeal no.224 of 2006 before this Court which has been dismissed in default on 30.12.2018 against which a restoration application is pending.

Considering that there is no interim stay in favour of the petitioner/ defendants the execution proceedings commenced. In the execution proceedings the petitioner has moved his objections which have been duly considered and rejected by means of order dated 27.10.2023. Against the order dated 27.10.2023 it has been stated that petitioner has preferred a revision which is pending before the District Judge, Hardoi.

It has further been submitted by the learned counsel for the petitioner that during the pendency of the aforesaid revision the decree and

order dated 27.4.2000 is sought to be executed and, accordingly, by means of order dated 07.11.2023 which has been impugned in the present writ petition, Civil Judge (Senior Division), Hardoi has passed order for execution of decree.

Learned Standing Counsel has opposed the writ petition and submitted that firstly a writ petition of the nature is not maintainable under Article 226 of the Constitution of India against judicial order and further submitted that the application has already been preferred by the petitioner on 14.11.2023 before the District Judge, Hardoi in the pending revision for expediting the consideration of his interim relief applications and, consequently, extraordinary jurisdiction of this Court cannot be invoked in the present case.

At this stage learned counsel for the petitioner submits that the grievance of the petitioner shall be substantially redressed in case District Judge, Hardoi is directed to consider and decide the application for interim relief and the pending revision expeditiously.

In light of the above without entering into the merits of the case petition is disposed of with the direction to the District Judge, Hardoi to consider and decide the application of the petitioner dated 14.11.2023 for deciding the application for interim relief expeditiously. In case the petitioner is able to demonstrate that there is urgency in the matter the District Judge shall consider and decide the application of the petitioner expeditiously in accordance with law.

With the aforesaid direction the present petition is ***disposed of.***

Order Date :- 11.12.2023
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(Alok Mathur, J.)