

Court No. - 9

Case :- WRIT - C No. - 10499 of 2023

Petitioner :- Bhagautideen

Respondent :- State Of U.P. Thru. Prin. Secy. Revenue Civil Sectt. Lko.
And Others

Counsel for Petitioner :- Rakesh Kumar Yadav

Counsel for Respondent :- C.S.C.

Hon'ble Rajan Roy,J.

Hon'ble Manish Kumar,J.

Heard Shri Rakesh Kumar Yadav, learned counsel for the petitioner and learned Additional Chief Standing Counsel for the State.

The petitioner contends that he is the bhumidhar of Gata No. 572 situated at Village Kamangarh, Pargana Miranpur, Tehsil-Sadar, District- Sultanpur. The opposite parties no. 4 to 8 who are private opposite parties herein, were interfering in the possession of the petitioner, therefore, he has filed a suit for permanent injunction, wherein, a Temporary Injunction was passed directing the respondents to maintain status quo with regard to the plot and not to undertake any construction or change its nature. This temporary injunction was passed on 08.02.2023, however, according to the petitioner, as, his 'chhappar' which was existing on the said land got damaged and the petitioner wanted to put up a new 'chhappar' the private opposite parties no. 4 to 8 have interfered and are preventing him from doing so.

Without going into the merits of the issues, as, factual issues may be involved including as to whether the temporary injunction is still in operation or not, we relegate the petitioner to the Sub-Divisional Magistrate, Tehsil- Sadar, District - Sultanpur who shall verify the facts only to the extent, firstly, as to whether there is any suit pending between the petitioner and the opposite parties no. 4 and 8. Secondly, whether there is any temporary injunction restraining the opposite parties no. 4 to 8 from interfering in Gata No. 572 referred hereinabove. Thirdly, whether any written statement has been filed by the opposite parties no. 4 to 8 in the said suit. If it is so, what is their stand in the said suit; whether they claim to be in possession of the land in question or not. If they are not in possession and the petitioner is in possession, then, he shall see that the temporary injunction order, if it is operative as per law, is complied with.

We, however, make it clear that this order shall not come in the

way of the proceedings of the suit pending before the Civil Court, if it is so, nor will any such action of the S.D.M. come in the way of proceeding with the suit and shall be subject to order passed in the said suit and without prejudice to the rights of the parties.

If the parties are aggrieved any further they may approach the Civil Court concerned which may take such decision as it may deem appropriate uninfluenced by our order, as, this order is only to facilitate compliance of temporary injunction, if any, operating in the said suit.

If the S.D.M. finds that there are factual disputes, which, he can not look into during the pendency of the suit, then, the parties will have to approach the Civil Court concerned.

With the aforesaid observations/directions, the writ petition is **disposed of.**

(Manish Kumar,J.) (Rajan Roy,J.)

Order Date :- 2.12.2023
R.K.P.