

Court No. - 13

Case :- MATTERS UNDER ARTICLE 227 No. - 6146 of 2023

Petitioner :- Siyaram Gupta And Another

Respondent :- State Of U.P. Thru. District Magistrate Distt. Ayodhya And 3 Others

Counsel for Petitioner :- Suresh Chandra Tiwari,Radha Krishna Yadav

Counsel for Respondent :- G.A.,Prashant Vikram Singh

Hon'ble Karunesh Singh Pawar,J.

Heard learned counsel for the petitioner as well as learned AGA for respondent no. 1 to 3 as well as Shri Prashant Vikram Singh, learned counsel for the caveator.

Through this petition, the petitioner has prayed for the following relief:-

(i) To set aside the order dated 25-03-2023 passed by Sub Divisional Magistrate Milkipur, District-Ayodhya in Case No. 61/2023, Computerize Case No. 202304230401912, U/S 145(1) Cr.P.C. & U/S 146(1) Cr.P.C. (Khusyali Gupta VS Siyaram Gupta) relating to Village Mohammadpur, Amaniganj, Pargana-Khandasa, Tehsil- Milkipur, Police Station-Khandasa, District-Ayodhya, which is contained as Annexure No. 1 & 2 to this writ petition, in the interest of justice.

Learned counsel for the petitioner submits that the impugned orders suffer from non-application of mind. The house being in question is away from the shop and the concerned SDM has wrongly attached the house.

It has been further submitted that petitioner no. 1 had purchased the shop from its owner Sunder Lal thirty years back who is real brother of petitioner no. 1.

Per contra, learned AGA as well as learned counsel for the caveator has disputed this contention. They have invited attention of the Court towards the police report which depicts that in the disputed house, there is shop. The shop was given to Siyaram thirty years back, however, presently petitioner no. 1 and his sons have encroached the house also due to which regarding the possession of the house, there is a dispute between the parties and there is a possibility of breach of peace.

Perusal of the order passed under Section 145 (1) and 146(1) Cr.P.C. shows that learned SDM while considering the possibility of disruption of peace due to the rival contention

relating to the possession of the house has rightly attached the property in question. The evidence before the concerned authority are yet to be led. There was no occasion for the petitioners to approach this Court at this stage. There is nothing wrong with the attachment order.

The petition is devoid of merits and is accordingly ***dismissed***.

Order Date :- 8.12.2023

R.C.