

Court No. - 6

Case :- MATTERS UNDER ARTICLE 227 No. - 6182 of 2023

Petitioner :- Smt. Vimlesh

Respondent :- Civil Judge (J.D.) Gonda And 3 Others

Counsel for Petitioner :- Dileep Kumar Pathak

Counsel for Respondent :- Dadu Ram Shukla (D.R. Shukla)

Hon'ble Rajnish Kumar,J.

Heard, Shri Dileep Kumar Pathak, learned counsel for the petitioner and Pt. D.R.Shukla, learned counsel for respondent no.4.

Learned counsel for the petitioner submits that the petitioner has filed a Regular Suit No.268 of 2023 for permanent injunction alongwith an application for temporary injunction under Order 39 Rule 1 and 2 read with Section 151 CPC. The notices were issued on the application for temporary injunction on 25.04.2023, but till date same has not been disposed of. The petitioner is a lady and the respondents are interfering in possession of the petitioner. He further submits that this court has already issued direction on the administrative side for disposal of the interim injunction application within a period of six months failing which the reasons should be recorded by the Presiding Officer, but neither the application is being disposed of nor the reasons are being recorded despite the application moved by the petitioner for disposal of the application on 11.04.2023. He makes an innocuous prayer for a direction for disposal of temporary injunction application expeditiously in a time bound manner.

Learned counsel for respondent no.4 opposing the prayer of the petitioner submits that notices have still not been served on the respondent no.4 and the petitioner has also not appeared on many dates.

On a query being put to learned counsel for the respondent no.4 as to how he came to know about the present petition, which has been filed by the petitioner arraying the Civil Judge (Jr.Div.) Gonda as first respondent, he submits that the son of respondent no.4 came to know about the present case from the official website of the High Court, then he contacted him therefore it is apparent that the son of the respondent no.4 has knowledge that the Suit filed by the petitioner is pending before the Civil Judge (Jr.Div.), Gonda, otherwise a person would normally not watch the official website of the High Court to see as to whether any case is filed or not in which his interest is

involved. Therefore if he has not put in appearance, then he is deliberately avoiding appearance despite knowledge of the aforesaid regular suit. However, as per the order sheet, defendants have put in appearance and no where it is recorded that the defendant no.3, who is respondent no.4 in the present petition has not put in appearance.

At this stage learned counsel for the respondent no.4 submits that since several first First Information Reports have been lodged against the husband of the petitioner, by the respondent no.4 and husband of the petitioner is in jail and in some of them the petitioner is also an accused, therefore son of the respondent no.4 used to watch the official website of this court to see as to whether any case has been filed or not in regard to them.

Be that as it may, now the respondent no.4 has knowledge of the Regular Suit No.268 of 2023 pending before Civil Judge (Jr.Div.), Gonda.

Learned counsel for the respondent no.4 submits that respondent no.4 will put in appearance through his counsel and his counsel will file 'Vakalatnama' in Regular Suit No.268 of 2023 within a week from today and shall remain present on the dates fixed in the matter and shall not take any unnecessary adjournment.

Considering the nature of order proposed to be passed notice to respondents no.2 and 3 is dispensed with. The respondent no.1 is the Court concerned.

In view of above, without entering into the merit of the case the petition is **disposed of** with direction to the concerned court to consider and dispose of the application for temporary injunction filed by the petitioner after affording opportunity to the parties in accordance with law expeditiously and preferably on the next date fixed in the matter and if not possible on the said date for some reason expeditiously and preferably in four weeks thereafter without granting unnecessary adjournment to either of the parties.

It is made clear that this court has not examined the merit of the case, which is to be examined by the concerned court in accordance with law.

(Rajnish Kumar,J.)

Order Date :- 13.12.2023
Banswar