

Court No. - 6

Case :- MATTERS UNDER ARTICLE 227 No. - 6450 of 2023

Petitioner :- Mohammad Juned And 2 Others

Respondent :- District And Sessions Judge Distt. Barabanki And 4 Others

Counsel for Petitioner :- Virendra Kumar Shukla, Shyam Pratap Singh

Hon'ble Rajnish Kumar, J.

Sri Virendra Kumar Shukla, learned counsel for the petitioners, while assailing the order dated 20.11.2023, passed in Regular Suit No.591 of 2023(Ashik Ali versus Mahmood Alam) submits that earlier the petitioners had filed Regular Suit No.1037/2009(Mohd. Haneef versus Ashik Ali) against the respondent no.4 in regard to Gata No.442, which was decreed in favour of the petitioners and the respondent no.4 was restrained from interfering in the possession of the petitioners by means of the judgment and decree dated 16.11.2023. The respondent no.4 had challenged the said judgment and decree in Regular Civil Appeal before the District Judge, Barabanki, which is pending. However, on a query being put, learned counsel for the petitioners failed to indicate as to what orders have been passed in the appeal.

He further submits that respondent no.4 has filed a fresh suit bearing Regular Suit No.591 of 2023 in regard to Gata No.744, which is the new number of Gata No.442, in which an exparte interim injunction has been granted by means of the order dated 20.11.2023, whereas the suit is barred by res-judicata. Therefore the petitioners are constrained to approach this Court.

Learned counsel for the petitioners, on a query being put, submits that the petitioners have filed an objection with application for recall of the order of interim injunction on 23.12.2023, disclosing the aforesaid facts, which is directed to be listed on the date fixed.

Considering the nature of order proposed to be passed, requirement of issuance of notice to the opposite party nos.4 and 5 is dispensed with.

Respondent nos. 1 to 3 are the court concerned.

In view of above, the petitioners may press their objection and the application before the concerned court, as the factual aspects are to be seen, which can be seen by the concerned court. The concerned court shall consider and decide the application expeditiously in a time bound manner.

With the aforesaid, the petition is **disposed of**.

Order Date :- 22.12.2023

Akanksha