

Court No. - 2

Case :- WRIT - C No. - 5589 of 2024

Petitioner :- Gajim Ali

Respondent :- State Of U.P. Thru. Dist. Magistrate Shrawasti And 8 Others

Counsel for Petitioner :- Ram Prasad Dwivedi

Counsel for Respondent :- C.S.C.

Hon'ble Alok Mathur,J.

Hon'ble Arun Kumar Singh Deshwal,J.

1. Heard Sri Ram Prasad Dwivedi, learned counsel for the petitioner as well as learned Standing counsel on behalf of respondent No.s 1, 2 and 3.

2. In light of the proposed order notice to private respondents is dispensed with.

3. It has been submitted that the present dispute pertains to the house of the petitioner existing in gata No.3716 which is relatable to old gata No.2819 min. situated in Village Ikaauna Dehat, Tehsil and police station Ikauna, District Shrawasti which was purchased by the petitioner from the father of respondent No.s 4 to 6 and the husband of respondent No.7 on 20.8.2007. It has been further submitted that the dispute between the petitioner and the private respondents is pending before Civil Judge (Junior Division), Shrawasti at the behest of the petitioner, who has filed Regular Suit No.669 of 2022 for permanent injunction against them. It has been further stated that an ad-interim injunction was granted in favour of the petitioner on 12.12.2022 for maintaining status quo and subsequently after appearance was put in by the defendants, the interim injunction was vacated on 29.5.2024. In fact, the grievance of the petitioner is with regard to rejection of his interim injunction application. It has been fairly submitted that the petitioner has not filed any miscellaneous appeal against the order dated 29.5.2024 and straightaway approached this Court seeking a direction to the Sub Divisional Magistrate to restrain the private respondents from raising the said construction.

4. In the aforesaid circumstances, this Court is of the considered opinion that the present dispute is clearly a private dispute between the petitioner and the private respondents which is pending before Civil Judge (Junior Division), Shrawasti at the behest of the petitioner. Once the petitioner has availed of his statutory remedy before the civil court then the same issue cannot be adjudicated before this Court in exercise of powers

under Article 226 of the Constitution of India. In case, the petitioner is aggrieved by the order of rejection of his ad-interim injunction, he has adequate remedy by filing miscellaneous appeal against the same.

5. In view of the above, no ground for interference is made out and accordingly the petition is **dismissed**.

(Arun Kumar Singh Deshwal, J.) (Alok Mathur, J.)

Order Date :- 25.6.2024
RKM.