

Court No. - 7

Case :- MATTERS UNDER ARTICLE 227 No. - 6175 of 2024

Petitioner :- Jagdish Narayan

Respondent :- District Judge Unnao And 9 Others

Counsel for Petitioner :- Anand Mani Tripathi, Sridhar
Awasthi, Sumit Jaiswal

Counsel for Respondent :- Dinesh Pratap Singh

Hon'ble Pankaj Bhatia, J.

1. Heard Sri Sudeep Seth, learned Senior Advocate along with learned counsel for the petitioner and learned Standing Counsel as well as Sri Dinesh Pratap Singh for the respondents No.2 to 8.

2. The present petition has been filed challenging the order dated 16.10.2024 passed by the appellate court whereby the refusal of injunction order was set aside and the parties were directed to maintain status quo over the property in question.

3. The submission of learned counsel for the petitioner is that the entire suit filed by the respondents was premised on the foundation that the Will executed in favour of the petitioner herein is a forged and fabricated document. It is further argued that the suit in the form, in which it was filed, was not maintainable for the reason that application under Order 7 Rules 11 CPC has been filed, as per the instructions received. Learned counsel for the petitioner draws my attention to the order passed by the Civil Court deciding the injunction application wherein the Civil Court did not find favour with the contention of the plaintiff, the Civil Judge also finds that the plaintiff had failed to establish a prima facie case and the possession also and the injunction application was rejected. Whereas in the appellate order, no finding has been recorded as to how the injunction order is perverse. It is further stated that the appellate court has not even considered the issue of irreparable hardship while passing the said order.

4. Considering the fact that the suit is pending since the year 2020, it is directed that application under Order 7 Rules 11 CPC, if any, is pending, the same shall be decided by the trial court with all expedition within a period of two months from today without granting unnecessary adjournment to any of the parties. In case, such application is rejected, the trial court shall frame an issue with regard to the validity of the Will and shall

record evidence in support of the said Will by both the parties and shall decide the said issue as a preliminary issue within a period of six months thereafter.

5. Till the issue is decided, the parties shall not create any third-party rights over the property in question over and above the property which has been sold during the pendency of the litigation. The appellate order shall stand modified to that extent.

6. The petition stands ***disposed of*** in the aforesaid terms.

(Pankaj Bhatia,J.)

Order Date :- 18.12.2024
(Manoj K.)