

Court No. - 2

Case :- WRIT - C No. - 6050 of 2025

Petitioner :- Maiku Lal

Respondent :- State Of U.P. Thru.Its Prin. Secy. Revenue
Deptt. Lko. And 7 Others

Counsel for Petitioner :- Raj Kumar Verma

Counsel for Respondent :- C.S.C.

Hon'ble Alok Mathur,J.

Hon'ble Arun Kumar Singh Deshwal,J.

1. Heard Sri Raj Kumar Verma, learned counsel for the petitioner as well as learned Standing Counsel for the respondents.

2. Learned counsel for the petitioner at the very outset has prayed that inadvertent mistake the Gata No. of the property in question has been wrongly mentioned in the memo of writ petition, it is prayed that he may be permitted to make necessary correction in the memo of writ petition. Accordingly, on the oral prayer made by learned counsel for the petitioner, he is permitted to make necessary correction in the memo of writ petition during course of the day.

3. It has been submitted by learned counsel for the petitioner that private respondents are interfering in the peaceful possession of the petitioner over the property being Gata No. 858, area 3.56 dismil situated in Village - Beniganj, H/O Fattehpur, Pargana - Machrehta, Tehsil - Misrikh, District - Sitapur and that the private respondents are also trying to take forceful possession of the disputed property. It is submitted that in this regard the petitioner has also preferred civil suit being Civil Suit No. 115 of 2007 - Maikulal Vs. Lallu Ram and Others, in the Court of Civil Judge (Senior Division), Sitapur.

4. It is next submitted by learned counsel for the petitioners that in the said suit an application under order 39 Rule 1 and 2 CPC has also been filed which is pending consideration and the next fixed in the matter before the Civil Court is 04.07.2025. It is submitted that the in meanwhile the private respondents are proceeding to forcefully take possession over the disputed property and present writ petition has been filed seeking direction to restrain the private respondents from taking illegal forceful possession over the property in dispute.

5. Learned Standing Counsel on the other hand submits that once petitioner has already instituted suit proceedings, then parallel proceedings for the same cause of action would not be maintainable. Apart from above, he submits that petitioner's application under Order 39 Rule 1 and 2 CPC has also been filed in the aforesaid suit, which is pending consideration.

6. Accordingly, this Court is of the considered view that once petitioner has availed the statutory remedy by filing civil suit before the Court of Civil Judge (Senior Division), Sitapur, then for same cause of action writ petition would not be maintainable. It is submitted that next date fixed in the civil suit is 04.07.2025, and an application under Order 39 Rule 1 and 2 CPC is pending consideration, we decline to interfere in the present matter.

7. However, it shall be open for the trial Court to consider and decide the application under Order 39 Rule 1 and 2 CPC for interim injunction and in case interim injunction could not be granted due to non representation of the defendants in the suit proceedings, it shall be open for the trial Court to pass ex-parte ad-interim injunction, if the case is so made out.

8. With above directions present writ petition stands **disposed of**.

Order Date :- 25.6.2025

A. Verma

(Arun Kumar Singh Deshwal, J.)

(Alok Mathur, J.)