

Goverdhan Lal

.....Petitioner

Vs.

Daulat Ram and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Amar Vivek, Advocate,
for the petitioner.

Mr. G.S. Sandhu, Advocate,
for the respondents.

AMOL RATTAN SINGH, J. (ORAL)

All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the COVID-19 pandemic.

This petition has been filed under the provisions of Section 227 of the Constitution of India, seeing the setting aside of the impugned judgment and order dated 23.07.2020, passed by the learned trial court in Civil Suit no. 81 of 2020, vide which an application of the petitioner (filed under Order 39, Rules 1 & 2 of the CPC), has been dismissed.

The petitioner further seeks the setting aside of the order dated 21.08.2020, passed by learned appellate court, to the extent of not granting any interim protection to the petitioner in Civil Misc. Appeal No. 26 of 2020.

Pursuant to notice of motion having been issued on 25.08.2020, Mr. Sandhu has appeared for the respondents and has submitted that in fact the site plan annexed with the petition is misleading, as it is different from the site plan annexed by the petitioner-plaintiff with the suit itself.

He further submits that the appeal filed by the petitioner-plaintiff against the order passed by the learned trial court dated 23.07.2020, dismissing the application of the petitioner filed under Order 39 Rules 1 and 2 of the CPC, is still pending before the appellate court, with the next date of hearing being 24.09.2020.

Learned counsel for the petitioner does not dispute the aforesaid fact as regards the pendency of the appeal.

However, he submits that the site plan annexed with the present petition is the same as that before the trial court, which would be obvious from the measurements given in both the plans.

That being so, this petition is disposed of with a direction to the appellate court to decide the appeal pending before it, within a period of one month from today, with no comment made on the merits of the case by this court.

In the meanwhile, till the decision of the appeal, further construction shall remain stayed.

September 16, 2020
nitin

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
No.