

Court No. - 30

Case :- MATTERS UNDER ARTICLE 227 No. - 2076 of 2018

Petitioner :- Mustzaab Ahmad And Another

Respondent :- Mirza Makbool Beg

Counsel for Petitioner :- Aklank Kumar Jain

Hon'ble Vivek Kumar Birla,J.

Heard learned counsel for the petitioner.

This writ petition has been filed seeking setting aside the impugned judgment and order dated 14.3.2018 passed by the Civil Judge (Junior Division), Moradabad in Original Suit No. 399 of 2014, Mirza Maqbool Beg Vs. Mustzab Ahmad and another. A further prayer in the nature of mandamus directing the court below to decide the Original Suit No. 399 of 2014 within a stipulated time has also been made.

Submission of learned counsel for the petitioner is that in a suit for injunction filed by the plaintiff-respondent two commissions were already issued and there was no occasion to issue fresh commission at this stage. It was pointed out that the first commission report was set aside being ex-parte in nature. The second report was in favour of the petitioner and was affirmed by the Court and interim injunction was granted in favour of the plaintiff - respondent. The appeal filed against the same was dismissed by the lower appellate court. The aforesaid orders were challenged by the plaintiff - respondent by filing **Matters under Article 227 No. 8636 of 2016, Mirza Makbool Beg Vs. Mustjaab Ahmad and another** wherein parties were directed to maintain status quo with regard to the nature and possession of the land in dispute vide order dated 25.10.2016. Learned counsel for the petitioner stated that the aforesaid interim order is still continuing and under such circumstances the plaintiff can only file contempt petition before this Court for vacation of the interim order dated 25.10.2016 and fresh commission report is to delay the proceedings only and because of such delaying tactics the case is not being proceeded further.

I have considered the submissions and have perused the record.

The court below has allowed the application and has called for fresh Amin's report only to find out current existing spot report and the object is not to delay the proceedings.

In view of such observations I do not find any good ground to interfere in the impugned order. The suit is of the year 2014 and the issues have not been framed as yet.

Considering the facts and circumstances of this case, without expressing any opinion on the merits of the case, the Civil Judge (Junior Division), Moradabad is directed to decide the aforesaid suit, as expeditiously as possible, in accordance with law, without granting any unnecessary adjournments and giving short dates provided there is no other legal impediment.

With the aforesaid observations, present writ petition stands disposed of.

Order Date :- 4.4.2018

p.s.