
(2012) 01 AHC CK 0424

In the Allahabad High Court

Case No : Miscellaneous Single No. 3702 of 2011

Banswari Lal Banka and Ors.

APPELLANT

Vs

District Judge, Faizabad and Ors.

RESPONDENT

Date of Decision : 09-01-2012

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 39 Rule 1

Citation : (2012) 01 AHC CK 0424

Hon'ble Judges : Rajiv Sharma, J

Final Decision : Disposed Of

Judgement

Rajiv Sharma, J.

Heard Dr. R. S. Pande, learned Counsel for the petitioner and Mr. R. R. Upadhyaya, learned Counsel appearing for the opposite parties.

The opposite party No.2 has filed a Suit for permanent injunction alongwith an application under Order 39 Rules 1 and 2 CPC. The said application was rejected by the trial Court on 14.4.2011 and against the said order of rejection, the opposite party No.2 has filed an appeal and the First Appellate Court, after considering the pleadings of the respective parties, had directed the parties to maintain status quo vide order dated 28.5.2011. Being aggrieved, the instant writ petition has been filed by the petitionersdefendants inter alia on the ground that they may be allowed to repair the wall, which has been constructed over the plot in dispute, to which learned counsel for the opposite parties states that the opposite party No.2 is the owner of the land in question and when he tried to construct the wall, the defendants with the help of police authorities have threatened him. Therefore, the wall could not be constructed and it is only thereafter, during pendency of trial, the petitioners have raised the wall on the southern side and thereafter on the western side, to which learned Counsel for the petitioners submits that after the proceedings so initiated before the trial Court, by means of regular suit, no construction has been raised by them. However, learned counsel submits that whatever the construction was raised, it

was before initiation of proceedings of trial.

At this stage, learned Counsel for the petitioner submits that he does not want press the relief for quashing of the orders passed by the Appellate Court.

Considering the peculiar facts and circumstances of the case, it is provided that the parties are directed to maintain status quo as it exists today and the trial Court is directed to look into the matter, on the basis of statements, which will be led by the parties as to whether the wall has been constructed, after initiation of proceedings before the trial Court or before filing of regular Suit.

With these observations and directions, the writ petition is disposed of finally.