

(2020) 07 J&K CK 0079

In the Jammu And Kashmir High Court

Case No : Other Writ Petition No. 1692 Of 2018, IA No. 1 Of 2018

Chander Gupta And Others

APPELLANT

Vs

Om Parkash And Others

RESPONDENT

Date of Decision : 08-07-2020

Acts Referred:

Citation : (2020) 07 J&K CK 0079

Hon'ble Judges : Vinod Chatterji Koul, J

Bench : Single Bench

Advocate : Abhishek Wazir, K.S. Puri

Final Decision : Disposed Off

Judgement

Vinod Chatterji Koul, J

1. This writ petition has been filed against the order dated 18.08.2018 passed by the learned District Judge, Rajouri, whereby the order dated 24.02.2016 passed by the learned Sub-Judge/Special Mobile Magistrate (Under 13th Finance Commission), Rajouri was set aside and the case was remanded back to the learned trial court for passing fresh orders after hearing both the parties.

2. Relevant portion of the order dated 18.08.2018 passed by the learned District Judge, Rajouri is reproduced hereunder:-

"As a sequel to the discussion made hereinabove, the appeal is accepted, and impugned order dated, 24.02.2016, passed in file No. 44/Civil, titled, Romesh Chander & Ors. V/S Om Parkash & Ors. is set aside. The matter is remanded back to the Learned Trial Court with the direction to hear the interim application afresh and pass appropriate order as warranted under law. Needless to mention that Ld. Trial Court while hearing the interim application shall be at liberty to take into consideration the prima facie possession of parties over the suit property and effect of challenge of the revenue entries before the Revenue Court. It is further provided that Ld. Trial Court shall make endeavor to dispose of the

interim application as early as possible preferably within 8 weeks from the date, copy of this order is received. Disposed of. Record be sent down alongwith copy of this order. Parties are instructed to appear before the Learned Trial Court on, 30.08.2018. File after due compilation be consigned to record."

3. It is clear from the above that the order of remand has been challenged in this writ petition. Learned counsel appearing for the petitioners submitted that he would be satisfied in case this writ petition is disposed of with a direction to the trial court to decide the application for temporary injunction expeditiously in terms of order passed by the learned District Judge, Rajouri after hearing both the parties and till said the application is disposed of, the parties shall maintain status quo on spot, to which Mr. K.S. Puri, learned counsel for the respondents has no objection.

4. Accordingly, in view of the statement/submission made by the learned counsel for the parties, this writ petition is disposed of. The trial court shall decide the application for grant of temporary injunction in terms of order dated 18.08.2018 passed by the learned District Judge, Rajouri in File No. 01/Appeal, titled "Om Parkash and others Vs. Romesh Chander and others". The parties shall cause their appearance before the trial court on 06.08.2020 and till then parties to the suit shall maintain status quo. The trial court shall hear and decide the application for temporary injunction expeditiously, preferably within a period of three weeks, thereafter.