
(2011) 09 AHC CK 0255
In the Allahabad High Court
Case No : Writ Petition No. 1879 of 2011

Mohd.Ishahaq Khan and another

APPELLANT

Vs

Safat Hussain Alias Chhangu and others

RESPONDENT

Date of Decision : 09-09-2011

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 39 Rule 1, Order 39 Rule 2

Citation : (2011) 09 AHC CK 0255

Hon'ble Judges : Abhinava Upadhyaya, J

Final Decision : Disposed Of

Judgement

Abhinava Upadhyaya, J.—The petitioners have filed a suit being Suit No. 2347 of 2004 for permanent injunction along with application 6C under Order XIII Rule 1 and 2 CPC. The trial court vide order dated 15.10.2004 issued notices on the application 6C. But none has put in appearance and the application has remained pending.

2. According to the learned counsel for the petitioner, no objection to the said application has been filed nor any written statement etc. have been filed by the defendantsrespondents.

3. Learned counsel further submits that more than 7 years have been passed and now the defendants are trying to encroach upon the property of the petitioners and prays that 6C application filed by the petitioners which has remained pending, be considered and decided.

4. A Division Bench of this Court in Km. Shobha Bose Vs. Judge Small Causes and others 2010 (1) ADJ 531 (DB), has held that such a direction should normally be not given for deciding a suit early.

5. In view of the aforesaid, I am not inclined to interfere in the matter and to issue any positive direction to the court concerned for the early disposal of the suit.

6. However, the writ petition is being disposed of with the observation that the court below, upon an application filed under Order XXXIX Rule 1 and 2 CPC in the aforesaid suit, will pass appropriate order keeping in mind the interest of the parties and without granting unnecessary adjournment to either of the parties.

7. With the aforesaid observation/direction, the petition stands finally disposed of.