
(2009) 04 AHC CK 0067
In the Allahabad High Court

Mohd.Israr Khan and others

APPELLANT

Vs

U.P.Shia Central Waqf Board and others

RESPONDENT

Date of Decision : 06-04-2009

Acts Referred:

Citation : (2009) 04 AHC CK 0067

Hon'ble Judges : Bala Krishna Narayana, J

Judgement

B. K. Narayana, J.

Heard Sri Mohd. Adil Khan, learned counsel for the applicants and Sri Jawed Murtaza, learned counsel for the opposite party No.4.

The instant civil revision has been filed by the applicants against the order dated 12.09.2008 passed by Civil Judge (Senior Division), Court No.15, Sultanpur issuing notice on the application 4Ga2 filed by the plaintiffs/ applicants for temporary injunction in Original Suit No.480 of 2008, Mohd. Israr Khan and another Vs. Uttar Pradesh Shia Central Waqf Board, Lucknow and others and declining to grant exparty injunction to the plaintiffsapplicants.

The following interim order was passed by this Court in this civil revision on 21.10.2008:

"Till the next date of listing the operation of the judgment and order dated 12.9.2008 shall remain stayed. It is further provided that respondent nos.3 and 4 shall not interfere in day to day working and in the management of Dargah/ Karbala."

It has been submitted by the learned counsel for the opposite parties that no revision is maintainable under Section 115 C.P.C. against an order passed by the trial court merely issuing notice on the application for temporary injunction. In support of his submission, learned counsel for the opposite parties has relied upon an unreported judgment of this Court given in Civil Revision No.135 of 2008, M/s Saraya Sugar Mills Limited Vs. State of Uttar Pradesh and others, on

03.12.2008,

Learned counsel for the plaintiffs/applicants has failed to meet the preliminary objection raised on behalf of the opposite parties regarding maintainability of this civil revision.

I am in respectful agreement with the view taken by this Court in the case of M/s Saraya Sugar Mills Limited (Supra) wherein it has been held that an order merely issuing notice on the application for temporary injunction is not revisable under Section 115 C.P.C. and a revision filed against such an order is not maintainable.

The civil revision is accordingly dismissed. However, keeping in view the peculiar facts and circumstances of the present case and the urgency in the matter, it is provided that both the parties shall appear before the learned Civil Judge (Senior Division), Court No.15, Sultanpur on 10.04.2009 on which date the learned Civil Judge shall fix some date for final disposal of the application 4Ga2 which shall not be later than a week from the date fixed for appearance of the parties and the learned Civil Judge shall make every possible endeavour to decide the application 4 Ga2 on the date so fixed. However, in case for some reason, the learned Civil Judge is unable to dispose of the application 4Ga2 on the aforesaid date, learned Civil Judge shall in any case decide the application 4Ga2 on or before 24.04.2009.

The interim order passed by this Court on 21.10.2008 shall remain operative till 24.04.2009 or till the application 4Ga2 is decided by the learned Civil Judge, whichever is earlier.

It is being made clear that this Court has not expressed any opinion on merits of the respective claim of the parties and the learned Civil Judge shall consider and dispose of application 4Ga2 without being influenced by any observation made hereinabove.