
(2012) 05 AHC CK 0167

In the Allahabad High Court

Case No : Matter Under Article 227 No. 743 of 2012

Ram Kalp

APPELLANT

Vs

Additional Civil Judge (J.D.) Court No.20 and others

RESPONDENT

Date of Decision : 02-05-2012

Acts Referred:

Constitution of India, 1950 — Article 227

Citation : (2012) 05 AHC CK 0167

Hon'ble Judges : Abhinava Upadhyaya, J

Final Decision : Disposed Of

Judgement

Abhinava Upadhyaya, J.

By means of this petition, the petitioner has come up with the grievance that a suit being suit No.265 of 2006 was filed by the plaintiff respondents for permanent injunction against the petitioner restraining him to interfere in the possession of the plaintiff. The said suit was instituted on 9.3.2006 and on the same day ex parte interim injunction was granted which is still continuing. In the suit, the defendant petitioner filed written statement on 24.3.2006 and also filed a counter claim that the plaintiff be restrained from interfering in plots No.786 and 787 of the petitioner and interim injunction be granted.

According to the petitioner, he filed objection etc. but neither his counter claim has been considered nor his application for interim injunction has been decided. Issues have been framed , therefore, it is prayed that the suit itself be decided expeditiously.

The suit is of the year 2006. In the absence of necessary pleadings, this Court is not aware of the pendency of other old cases before the court concerned who is in seize of the present matter. Any direction for the early disposal of this suit would in fact amount to giving priority to the above suit over and above other cases which may be pending before the court concerned since before institution of the suit in question.

Reference may be made of a Division Bench of this Court in *Km. Shobha Bose Vs. Judge Small Causes and others* 2010 (1) ADJ 531 (DB) wherein it has been held as under:

"We are of the opinion that power to direct expeditious disposal of suit or for that matter any lis which, in sum and substance, means out of turn disposal is to be exercised sparingly in extraordinary circumstances and not in a routine manner. It is fit to be exercised only when the Court comes to the conclusion that delay would cause gross injustice. However, while deciding this issue, the Court would bear in mind that it does not cause injustice to other litigants, who are waiting for justice from before because the very nature of order delays cases filed earlier. It causes resentment and dissatisfaction to those who are waiting for justice from before. It should be exercised only when it comes to the notice of this Court that Judge in seisin of the case is purposely avoiding to dispose of the suit for any oblique motive, which may defeat the justice. An order for expeditious disposal in a routine manner can not be countenanced."

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.

However, the petition is being disposed of with the observation that the court below will decide the aforesaid suit according to the length of pendency of cases in its court keeping in mind the interest of the parties and without granting unnecessary adjournment to the parties provided there is no order staying the further proceedings of the suit.

With the aforesaid direction, the petition stands finally disposed of.