

(2013) 04 AHC CK 0252
In the Allahabad High Court
Case No : C.M.W.P. No. 1123 of 2013

Usha Devi and another

APPELLANT

Vs

Civil Judge (Junior Division), Jaunpurr and Others

RESPONDENT

Date of Decision : 26-04-2013

Acts Referred:

Citation : (2013) 5 ALJ 501 : (2013) 99 ALR 447 : (2013) 4 AWC 3301 : (2013) 120 RD 421

Hon'ble Judges : Sibghat Ullah Khan, J

Bench : Single Bench

Advocate : S.M. Yadav, for the Appellant;

Final Decision : Disposed Of

Judgement

Sibghat Ullah Khan, J.—It is very strange that even though defendants are not appearing inspite of sufficient service in Original Suit No. 829 of 2012, Usha Devi and another v. Murlidhar and others, still Civil Judge (Junior Division), Jaunpur, is not passing any order on temporary injunction application. Suit has been filed on 24.8.2012. From perusal of the order sheet it appears that on several dates the case was adjourned on the ground that A.D. attached with the registered notice had not returned. If A.D. or the registered envelop does not return within one month service is presumed. Service has been effected through publication also. In spite of deliberate non-appearance of the defendants learned Presiding Officer of the court of Civil Judge (Junior Division), Jaunpur is neither rejecting temporary injunction application on merit nor granting even ad-interim injunction. 12 dates have been fixed so far. It is rather a torture upon the petitioner plaintiff. It is reported that 13.5.2013 is the next date fixed. On the said date if no one appears for the defendant then the learned Civil Judge (J.D.) shall hear the plaintiff and either reject temporary injunction application or consider the desirability of granting ad-interim injunction to the plaintiff. Learned presiding officer shall be careful in future. If at the time of filing of the suit ad-interim injunction is not granted and notices are issued (which shall always be

both ways) and no one appears for the defendant on the next date then court must either reject temporary injunction application on merit or consider the desirability of granting ad-interim injunction.

2. Writ petition is disposed of.

3. Learned District Judges particularly of the district in question, i.e., Jaunpur are also directed to Impress upon the Presiding Officers of the courts of Civil Judge (Junior Division) and (Senior Division) to adopt balanced approach in the matters of temporary injunction. If ad interim injunction is granted then plaintiff must not be permitted to delay for a single day. However, if notice is issued and ad-interim injunction is not granted then defendant must not be permitted to delay and in case defendant does not appear then court shall either reject temporary injunction application on merit or consider the desirability of granting ad-interim injunction. Let this case be treated as an illustrative case. Office is directed to send a copy of this order to learned District Judge, Jaunpur. A copy of this order may also be placed before Hon"ble Administrative Judge, Jaunpur for his Lordship perusal.