

Allahabad High Court

Avdhesh Kumar vs Ram Sagar Yadav & Others on 7 July, 2010

Court No. - 4

Case :- WRIT - C No. - 38948 of 2010

Petitioner :- Avdhesh Kumar

Respondent :- Ram Sagar Yadav & Others

Petitioner Counsel :- Ramesh Chand Tiwari, S.M.A. Abdy

Hon'ble Krishna Murari, J.

Heard learned counsel for the petitioner.

The sole grievance of the petitioner is that the trial court has not decided the temporary injunction application in suit filed by him and taking advantage of the said fact, the defendant respondents have started constructions and have started putting earth over the land in suit by dumpers and are levelling it by JVC machines. It is contended that despite documentary evidence in the form of Khasra and Khatauni, which went to establish the prima facie title and possession of the petitioner no.1 and proforma respondents 5 to 15, the court below wrongly and illegally refused to grant injunction and only issued notices and that even though defendant no.1 has put in appearance but the trial court granted adjournment and fixed 12.7.2010.

Considering the facts and circumstances, no useful purpose would be served by keeping this petition pending and calling for counter affidavit.

Considering the fact, the writ petition stands disposed of with the direction to the Civil Judge (Jr.D.), Jaunpur to make every endeavour to decide the temporary injunction application on the date fixed, which is stated to be 12.7.2010, on merits and in accordance with law, after notice and opportunity to all concerned. However, if for any unforeseen circumstance the trial court is not able to decide the temporary injunction matter on the date fixed, it shall grant adjournment for a short time and in any view, shall decide the temporary injunction matter within 10 days thereafter.

Till the disposal of the temporary injunction application, parties are directed to maintain status quo over the property in suit as it exists today. It is made clear that the trial court shall decide the temporary injunction application without being influenced by any of the observations made herein.

The writ petition stands disposed of.

Order Date :- 7.7.2010 SM