

Hon'ble Tarun Agarwala, J.

Heard Mr. M. S. Tyagi, Advocate for the petitioner. List has been revised. No one appears for the respondent.

The plaintiff filed a suit for prohibitory injunction. The petitioner, who is the defendant, appeared and filed the written statement and also filed an application for abatement of the suit on the ground that the consolidation proceedings have come in operation and in view of Section 5 of the U.P. Consolidation of Holdings Act, the suit was liable to abate. It was also alleged that the land has been acquired. This application was rejected by the trial court on the ground that the suit does not abate since it was purely a suit for prohibitory injunction and no question of title was involved between the parties to be adjudicated.

Having heard the learned counsel for the petitioner, there is nothing to indicate that the title of either of the parties to the property in question was involved. In the light of the aforesaid, Section 5 of the Act will not come into the picture and the suit will not abate since it was purely a suit for prohibitory injunction. The writ petition is dismissed accordingly.

Certified copy of the order shall be sent by the Registry to the court below within ten days from today for necessary information and action.

(Tarun Agarwala, J.)

Dated 30.12.2011

LSR