

WPMS No.161 of 2012
Hon'ble V.K. Bist, J.

(Urgency Application No.527 of 2012)

Heard Shri Sandeep Kothari, Advocate holding brief of Shri Virendra Kaparwan, learned counsel for the petitioner.

Urgency application is allowed.

WPMS No.161 of 2012

Heard.

The respondent preferred an Original Suit no.75 of 2006 before the learned Civil Judge (S.D.), Tehri Garhwal for vacating the property in question. The said suit was decreed by the learned trial court vide judgment and order dated 29.09.2010. Against the aforesaid judgment, Civil Appeal no.13/2010 was preferred before the District Judge, Tehri Garhwal. On 15.12.2010, the impugned judgment and order was stayed. Thereafter, some dates were fixed in the matter, but the matter could not be argued. The case was fixed on 16.11.2011, on which day, adjournment was sought on behalf of the learned counsel for the appellant on the ground of marriage of his son and it was further prayed that the interim order granted in favour of the petitioner/appellant may be extended. The learned District Judge, however, adjourned the case, but refused to extend the interim order and fixed 05.12.2011 for hearing. Aggrieved

by the said order, the present writ petition has been filed by the petitioner.

I have perused the order sheet. I find that on, as many as, 12 occasions, the learned counsel for the petitioner/appellant sought adjournment. I also find that on 11.10.2011, when the adjournment was granted and 16.11.2011 was fixed, it was mentioned in the order that no adjournment shall be granted on the next date fixed. Due to this reason, the interim order was not extended.

Learned counsel for the petitioner submitted that on 16.11.2011, adjournment was sought on personal ground of the learned counsel for the appellant, as the marriage of his son was scheduled on 19.11.2011. For this purpose, he has also annexed a copy of the marriage invitation card of his son (annexed as Annexure no.6 to the writ petition). Learned counsel for the petitioner prayed that interim order be passed in favour of the petitioner till the disposal of appeal. He undertook that petitioner shall not take unnecessary adjournment in the appeal.

After considering the submission of the learned counsel for the petitioner and after going through the material available on record, the writ petition is disposed of with a direction the learned District Judge Tehri Garhwal to decide the Civil Appeal No.13/2010 expeditiously, preferably within a period

of one month from the date of production of a certified copy of the order. It is also directed that till the Civil Appeal No. 13/2010 is decided, the interim order passed in the appeal, which was vacated on 16.11.2011, shall continue to operate. It is further directed that petitioner shall not take unnecessary adjournment in the appeal.

Stay application (CLMA No.635 /2012) also stands disposed of.

(V.K. Bist, J.)
Vacation Judge

27.01.2012

Arpan