

Court No. - 21

Case :- CRIMINAL MISC. WRIT PETITION No. - 11221 of 2017

Petitioner :- Jugesh Kumar

Respondent :- State Of U.P. And 5 Others

Counsel for Petitioner :- Gulab Chandra

Counsel for Respondent :- G.A.

Hon'ble Krishna Murari,J.

Hon'ble Krishna Pratap Singh,J.

This writ petition has been filed by the petitioner seeking a mandamus to command the respondent District Magistrate and Senior Superintendent of Police to restore the possession over the house situate in Mohalla Gariwan City, Mainpuri after evicting the unauthorised occupant.

The aforesaid relief has been claimed in the background of the following facts.

Petitioner claims to have purchased a residential house having an area of 240 sq. ft. situate in Mohalla Gariwan, City Mainpuri from its erstwhile owner by means of a registered sale deed dated 24.02.2016 on payment of the valuable consideration. It is also alleged that physical possession of the house in question was handed over to him. It is further pleaded that respondent no. 4, who is neither tenant nor occupier nor has any right, title or interest over the house in question, was making efforts to dispossess him forcibly, which led the petitioner to file a suit bearing No. 149 of 2016 before the Civil Judge, Senior Division seeking a decree of permanent injunction to restrain the said respondents from interfering in his peaceful possession and occupation over the house in question. The aforesaid suit is still pending before the trial court and admittedly, no temporary injunction has been granted. It is further alleged in the writ petition that during the pendency of the suit, private respondent no. 6 also tried to occupy the house forcibly and both the parties were challaned under Sections 151, 107 and 116 Cr.P.C. Petitioner further alleges that on 28.04.2017, after having released, when he came back to the house, he found that his household materials were looted and an unknown lady has forcibly entered into his house on the notice of the private respondents. A FIR has also been alleged to be lodged against the private respondent no. 5, Awadhesh Mishra and one Rinku and one unknown lady.

In the backdrop of the above facts, the relief quoted hereinabove is being claimed by the petitioner.

From the pleadings, it appears that there is some dispute in respect of the property with the private respondents and in the garb of the same, petitioner instead of availing the appropriate remedy available to him under common civil

law before the civil court, has approached this Court seeking a mandamus to evict the unauthorised occupant from the house in question.

This is an issue, which can more appropriately be decided on the basis of the evidence to be brought on record by the parties, which may not be possible in a writ petition. Even otherwise, it is well settled that administrative authorities have no jurisdiction or power to interfere into a private civil dispute in respect of a property and, thus, the relief prayed for by the petitioner to command the District Magistrate and Senior Superintendent of Police to evict the unauthorised occupant, cannot be granted, just for asking by the petitioner.

In view of the above facts and discussions, the writ petition is devoid of merits and the relief prayed for is not liable to be granted. Writ petition, accordingly, fails and stands dismissed.

Order Date :- 5.7.2017

VKS