

**Hon'ble Manoj K. Tiwari, J.**

Mr. Arvind Vashist, Senior Advocate, assisted by Mr. Piyush Garg, Advocate for the petitioner.

Mr. U.K. Uniyal, Senior Advocate, assisted by Mr. Sandeep Kothari, Advocate for the respondents.

By means of this petition under Article 227 of the Constitution of India, following reliefs are sought by the petitioner:

*“i) A writ, order or direction in the nature of certiorari quashing the part of order dated 30.01.2018 passed by learned Civil Judge Senior Division, Dehradun in OS no. 58 of 2018 Avadhesh Edutech vs Avinash Kumar Sehgal and others” to the extent whereby the learned Trial Court by overlooking the merits of the case and urgency of the matter did not grant an interim injunction till disposal of the Injunction application and has fixed the application bearing paper no. 10C filed by the Petitioner also for disposal on the date fixed.*

*ii) To allow the temporary injunction application filed by the petitioner or in the alternative be pleased to grant temporary injunction in favour of the petitioner till disposal of the temporary injunction application by the learned trial court.”*

Petitioner, who claims to be in possession in respect of suit property, has filed the suit for permanent injunction, which has been registered as O.S. No. 58 of 2018 before the learned Civil Judge (S/D), Dehradun on 30.01.2018. He has also filed a temporary injunction application alongwith said suit with the prayer that the defendants be restrained from interfering with the possession of the plaintiff over the property in question.

On 30.01.2018, notices were issued fixing 02.02.2018 for disposal of Objection/Temporary Injunction application and thereafter, the matter was adjourned to 16.02.2018. On 16.02.2018, learned Trial Court adjourned the matter to 14.03.2018. It appears that on 22.02.2018, petitioner moved an application for preponing hearing on the temporary injunction application and the learned Trial Court directed that the matter shall be heard on the next date fixed.

In the present petition, it is contended that the learned Trial Court ought to have granted temporary injunction in favour of the petitioners in view of the urgency in the matter.

Shri. U.K. Uniyal, Senior Advocate assisted by Shri. Sandeep Kothari, Advocate present for the defendants/respondents opposes the contention of the learned counsel for the petitioner and submits that the counsel for the plaintiff did not appear before the court below on 02.02.2018 and 16.02.2018, therefore, plaintiff himself is to be blamed for the adjournment of temporary injunction application, on these two dates.

Shri. Arvind Vashistha, learned senior counsel appearing for the petitioner confines his prayer and submits that the learned court below be directed to consider and dispose of the temporary injunction application on the next date fixed i.e. 14.03.2018.

Shri. U.K. Uniyal, learned senior counsel representing defendants/respondents has no objection, if such direction is issued.

In such view of the matter, learned court below is requested to consider and decide the temporary injunction application on the next date fixed i.e. 14.03.2018 or any other date within a week thereafter. It shall be open for the defendants to file their objections, if any, to the temporary injunction application on or before 13.03.2018.

Since, there is a dispute regarding possession over the land in question, therefore, the District Magistrate, Dehradun is directed to ensure that no untoward incident occurs and status quo is maintained as regards the property in question till disposal of temporary injunction application.

The learned court below shall decide the temporary injunction application of the plaintiff without being influenced by any observation made by this court.

With the aforesaid direction, writ petition stands disposed of.

**(Manoj K. Tiwari, J.)**

28.02.2018

*Sukhbant/Neha*