IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK JAIN

ON THE 28th OF NOVEMBER, 2023

MISC. PETITION No. 6704 of 2023

BETWEEN:-

SMT. LEELA DEVI W/O HARIPRASAD RAI, AGED ABOUT 62 YEARS, R/O BHOPAL NAKA SEHORE TEHSIL AND DISTRICT SEHORE (MADHYA PRADESH)

.....PETITIONER

(BY SHRI AVINASH ZARGAR - ADVOCATE)

AND

GOPAL LAL YADAV S/O GANPAT LAL YADAV R/O CHOTI GWALTOLI GANJ SEHORE TEHSIL AND DISTRICT SEHORE (MADHYA PRADESH)

.....RESPONDENTS

(BY SHRI SATYAM AGRAWAL - ADVOCATE)

This petition coming on for admission this day, the court passed the following:

ORDER

This petition under Article 227 of the Constitution of India has been filed by the plaintiff - petitioner challenging the order Annexure P/1 dated 06.10.2023, whereby the District Court has confirmed the order dated 12.05.2023 (Annexure P/2). By the said order dated 12.05.2023, the application for temporary injunction under Order 39 Rule 1 and 2 filed by the defendant has been allowed.

2. Learned counsel contents that the suit has been filed by the petitioner in respect of his land in survey No.221/1/1 area 0.134 hectare. The defendant by way of written statement and counter claim filed subsequently, is claiming rights

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over 29.4 square meters land in survey No.208/1/1/3.

3. The trial Court had allowed the application filed by the plaintiff under Order 39 Rule 1 and 2 by the order dated 30.04.2022 (Annexure P/16). By the said order, it was directed that temporary injunction is granted only in relation to land in Survey No.221/1/1 claimed by the plaintiff and it has no relevance to land in survey No.208 claimed by defendant. It was further observed that authorities are free to take action on any illegal interference/encroachment on both the survey numbers. Thereafter, the defendant also filed separate application for injunction in respect of survey No.208/1/1/3 and prayed to restrain the plaintiff from interfering in his possession. It is this application which has been allowed by the trial Court by order Annexure P/2 and confirmed by the appellate Court by Annexure P/1 dated 06.10.2023.

4. The interesting feature of this case is that separate injunction orders have been passed in favour of plaintiff as well as the defendant vide orders Annexures P/16 and P/2. In both the orders, it has been directed by the trial Court that the parties will remain in possession of their respective land in their respective survey numbers and will not interfere/illegally encroach on survey number/land of each other. In both the orders, the authorities have been granted liberty to take action, if any illegal interference/encroachment is made by any of the parties on the land of the other party.

5. As the rival parties claimed different lands and the real dispute relates to boundaries/identity of the land, it is appropriate that the trial Court is directed to decide the suit expeditiously preferably within a period of ten months from the date of communication of copy of this order. It is observed that both the parties will not encroach/interfere on possession of the rival party and will

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maintain status quo over the land in terms of order Annexures P/16 and P/2.

6. With the aforesaid, this petition stands **disposed of.**

(VIVEK JAIN)
JUDGE

rj

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