IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE MANINDER S. BHATTI

ON THE 22nd OF JUNE, 2023

MISC. PETITION No. 5453 of 2019

BETWEEN:-

VASUDEV THARWANI S/O LATE BAJARILAL THARWANI, AGED ABOUT 55 YEARS, OCCUPATION: ADVOCATE WARD NO.44 SANT KANWAR RAM SINDHI COLONY BICHIYA THANA BICHIYA TEHSIL HUZUR DISTT. REWA (MADHYA PRADESH)

.....PETITIONER

(BY MS. SUDIPTA CHOUBEY - ADVOCATE)

AND

SUDAMA THARWANI S/O LATE BAJARILAL THARWANI, AGED ABOUT 64 YEARS, OCCUPATION: BUSINESS WARD NO.44 ANT KANWAR RAM SINDHI COLONY BICHIYA THANA BICHIYA TEHSIL HUZUR DISTT. REWA (MADHYA PRADESH)

.....RESPONDENTS

(BY SHRI NITIN SHUKLA - ADVOCATE FOR RESPONDENT NO.1)

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

ORDER

This is a petition by the petitioner seeking for setting aside of order dated 23.09.2019 contained in Annexure P-1 passed by IVth ADJ, Rewa in M.C.A.No.47/2019.

2. Learned counsel contend that the present petitioner/plaintiff has filed a suit before the Court below, seeking declaration, permanent injunction. In the said suit, the defendant submitted their counter claim alongwith an application under Order 39 Rule 1 & 2 CPC. The application filed under Order 39 Rule 1

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& 2 CPC by the defendant was dismissed by the trial Court vide order dated 25.04.2019 (Annexure P-6). Assailing the order dated 25.04.2019, passed by the trial Court the defendant preferred an appeal on such the provisions of Order 43 (1) (r) CPC before the lower appellate Court. The lower appellate Court vide impugned order dated 23.09.2019 has allowed the appeal and has further allowed the application filed under Order 39 Rule 1 & 2 CPC, restraining the petitioner from raising any construction over the property in question.

3. The learned counsel contend that the order passed by the lower appellate Court is causing inconvenience in as much as the plaintiff has to construct the house which is required looking to the forthcoming wedding ceremony in the family.

4. Learned counsel for the respondent submit that this Court vide order dated 02.11.2019 directed the parties to maintain status quo and therefore, the proceedings of the trial Court be directed to be concluded within a time bound period and till the disposal of the Civil suit, the interim order dated 02.11.2019 passed by this Court, be allowed to remain in force.

5. Heard the submissions advanced on behalf of the parties.

6. This Court vide order dated 02.11.2019 by way of an interim measure, directed the parties to maintain status quo. It is undisputed that the suit is pending consideration before the trial Court since 2019, hence, it would be conducive and proper that the suit itself is decided by the trial Court within a time bound manner.

7. In view of the aforesaid, without expressing anything on merit, the present petition stands disposed off with a direction to the trial Court to conclude the trial of the suit as expeditiously as possible, preferably, within a

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period of six months from the date of production of certified copy of this Order.

8. Till the decision on Civil Suit, the interim order dated 02.11.2019 pertaining to status quo passed by this Court shall remain in force.

9. With the aforesaid, the petition stands disposed off.

(MANINDER S. BHATTI)
JUDGE

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THE HIGH COURT OF MADHYA PRADESH
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