

Court No. - 7

Case :- SECOND APPEAL No. - 1201 of 2022

Appellant :- Sadhu And 5 Others

Respondent :- Smt. Kaushilya And 12 Others

Counsel for Appellant :- Ramesh Rai, Mukesh Dhar Dwivedi

Counsel for Respondent :- Vikas Mani Srivastava, Ravindra Kumar Srivastava

Hon'ble J.J. Munir, J.

Order on Civil Misc. Listing Application No. 5 of 2024.

Heard learned Counsel for the applicants and Mr. Ravindra Kumar Srivastava, learned Counsel appearing on behalf of the respondents.

There is a decree for demolition of the standing constructions on the suit property and delivery of possession which is being put to execution.

This application has been made seeking extension of the interim order on the ground that while passing a detailed order, this Court on 28.02.2023 though had stayed the operation of the decree impugned yet the Executing Court is proceeding with the matter on the pretext that the interim order was there, till the next date of listing.

In our opinion, the Executing Court should not have proceeded with the execution, if it is true that it has by issuing a writ of possession and demolition to the Amin.

The interim order dated 28.02.2023 shall continue to remain in operation.

The writ of possession, if any issued, shall be immediately recalled by the Executing Court.

This application is **allowed**.

Order on Memo of Appeal.

An order extending the interim order *et cetera* has been passed on Civil Misc. Listing Application No. 5 of 2024.

This Court notices that a photostat copy of the Lower Court record has been sent and not the original.

Summon the Lower Court records (not photostat copies) **forthwith**.

The learned District Judge, Maharajganj is ordered to ensure that the Lower Court records (not photostat copies) are made available to this Court by the next date scheduled.

List for **admission** on **15.02.2023**.

Let this order be communicated to the Civil Judge (Senior Division), Maharajganj through the learned District Judge, Maharajganj and to the learned District Judge, Maharajganj by the Registrar (Compliance) **today**.

Order Date :- 31.1.2024

Prashant D.