

Manjit Malik Vs. Ramesh Kumar Malik and ors.

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SooperKanoon Citation : sooperkanoon.com/708674

Court : Delhi

Decided On : Jan-31-2001

Reported in : 2001VAD(Delhi)244; 90(2001)DLT488; 2001(58)DRJ143

Judge : S.K. Mahajan, J.

Acts : [Constitution of India](#) - Article 227

Appeal No. : Civil Misc. (M) No. 195 of 1996

Appellant : Manjit Malik

Respondent : Ramesh Kumar Malik and ors.

Advocate for Def. : Suman Kapur, Adv.

Advocate for Pet/Ap. : H.P. Singh, Adv

Disposition : Petition dismissed

Judgement :

S.K. Mahajan, J.

1. The petitioner has filed a suit being S. No. 38/96 for injunction restraining the respondents from interfering in any manner with the ownership rights of the plaintiff in the property in his possession. The suit was filed during vacations in December, 1995 and on 29th December, 1995 the Court while issuing notice to

the respondents directed status quo to be maintained as on that day. It appears that despite the reply having been filed by the respondent the application for interim injunction was not being decided by the Trial Court and the petitioner, therefore, filed this petition under Article 227 of the [Constitution of India](#) for a direction to the Trial Court to decide his interim applications without any further delay. All these applications have since been decided by the Trial Court. It appears that the respondent had also filed a suit for possession being S. No. 665/95 and the said suit is also being tried with the suit filed by the petitioner. A perusal of the file shows that no application is now pending before the Trial Court and I do not see any reason as to why the present petition should remain pending in this Court.

2. Counsel for the petitioner states that he had moved an application before the Trial Court in 1998 for permission to carry out certain repair/construction in the premises and that application has not yet been decided by the Court. It is stated that because of that application not being decided he had filed CM 1662/2000 in this Court. No averment has been made in this application about the petitioner having filed an application before the Trial Court for permitting him to raise three columns in the premises. In my view, firstly the petitioner cannot be permitted to enlarge the scope of this petition by moving one application or the other which is not the subject matter of the present petition and secondly the petitioner must first approach the Trial Court for the grant of appropriate relief and it is only in case the relief is not granted, that he may have a right to file a petition in this Court. The petitioner cannot be permitted to file one application or the other for grant of stay in a suit which is pending in the Trial Court.

3. Since the application for injunction has already been disposed of by the Trial Court, nothing survives in the petition and accordingly, I dismiss this petition as having been infructuous. The petitioner will, however, be at liberty to move appropriate application as may be permissible in law for the grant of appropriate relief in the Trial Court.

4. Petition dismissed as infructuous.

