

Court No. - 81

Case :- MATTERS UNDER ARTICLE 227 No. - 1040 of 2023

Petitioner :- Smt. Seema Vishwakarma

Respondent :- Udaykant

Counsel for Petitioner :- Satish Kumar Yadav

Hon'ble Ram Manohar Narayan Mishra,J.

Heard learned counsel for the petitioner as well as learned A.G.A. for the State and perused the material available on record.

Learned counsel for the petitioner submitted that a report has been submitted by Chief Judicial Magistrate, Prayagraj, wherein it is stated that in Execution Case No.39/12/2015, under Section 31 of Protection of Women from Domestic Violence Act, 2005, Police Station Shiv Kuti, District Prayagraj is pending in the Court of Civil Judge (Junior Division), FTC Room No.21, Payagraj and vide the report of said court dated 11.07.2023 recovery warrant was issued against the opposite party in pursuance of court's order dated 24.11.2021, and same is directed to the served through District Magistrate, Prayagraj, and dated is fixed as 11.07.2023 therein.

Learned A.G.A. submitted that as per report received from Tehsildar Sadar, District Prayagraj dated 07.08.2023, the recovery warrant was received on 30.05.2022 for a sum of Rs.3.36,000/- and thereafter R.C Form No.36 was issued against the Tehsildar on 30.05.2022, when the opposite party was tried to be brought for service of recovery warrant. He was found absconded and his present address could not be known from his family members and neighbours and for that reason the said warrant was served on his father of opposite party Rammoorti Vishwakarma on 02.06.2022. As the date fixed in recovery warrant for service thereon has lapsed, a letter was issued to Tax Superintendent, Nagar Nigam Prayagraj on 16.07.2022 and a report has been received from Nagar Nigam on 05.04.2023 to the effect that said house No.127/60/Z is in the name of opposite party Jaikant, Ajaykant and Udaikant in Municipal Records as owners of the house.

R.C. Form 37 (arrest warrant) has been issued on 10.01.2023 for further action towards the recovery of amount of maintenance, but same could not be effected due to abscondence of the opposite

party.

From perusal of the report of District Magistrate, Prayagraj which is signed by Tehsildar Sadar, Prayagraj it appears that recovery proceedings are still pending due to abscondence of the opposite party.

The executing court is directed to make every effort to decide the said execution case at the earliest, preferably within three months from the date of production of a certified copy of this order and District Magistrate is also directed to take necessary steps within forecorners of law to execute the recovery and arrest warrant issued by the court below against the opposite party.

The petition is accordingly, **disposed of.**

Let a copy of this order be forwarded to the District Magistrate, Prayagraj for necessary action.

Order Date :- 16.11.2023

Ashish/-