

Court No. - 87

Case :- APPLICATION U/S 482 No. - 6815 of 2018

Applicant :- Bhagauti Prasad And 2 Others

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Pramod Kumar Srivastava

Counsel for Opposite Party :- G.A., Shivesh Mishra

Hon'ble Neeraj Tiwari, J.

1. Case was called out. Sri Shivesh Mishra, learned counsel for the opposite party no.2 as well as learned AGA is present whereas Mr. Pramod Kumar Srivastava, learned counsel for the applicant is not present.

2. Sri Shivesh Mishra, learned counsel for the opposite party no.2 has produced the mention slip with the receiving of Mr. Pramod Kumar Srivastava, learned counsel for the applicant, but when the case is taken up, learned counsel for the applicant is not present. Mention slip dated 1.11.2023 is taken on record.

3. Sri Shivesh Mishra, learned counsel for the opposite party no.2 submitted that this second application for the same cause of action, therefore, same is not maintainable. He further submitted that on the previous occasions too i.e. 9.1.2023 & 18.10.2023, learned counsel for the applicant was not present.

4. I have perused the order sheet. When the case was heard on 9.1.2023, Court has passed the following order:-

Case has been called out out of turn on the mention made by the learned counsel for applicants. However, no one is present on behalf of the applicants to press this application even in the revise call.

Accordingly, list in ordinary course.

5. Again, case was heard on 18.10.2023, Court has passed the following order:-

"1. This matter is taken up out of turn on the mentioning slip submitted by Sri Shivesh Mishra, learned counsel for opposite party no.2 stating that counsel for the applicants has received notice of mentioning the case. The said mentioning slip is taken on record.

2. Learned counsel for the opposite party no.2 submits that he has filed the counter affidavit, but the same is not available on record.

3. *List this case on 01.11.2023 in the additional cause list.*

4. *In the meanwhile, learned counsel for the applicant may file rejoinder affidavit, if so desires.*

5. *The matter shall not be treated as tied up or part heard to this Bench."*

6. From perusal of the order sheet, it is apparently clear that counsel for the applicant was not present on the previous occasions too i.e. 9.1.2023 & 18.10.2023 and further, it appears that applicant is willing to contest the case any further.

7. Accordingly, the application is **dismissed** for want of prosecution.

8. Interim order, if any, stands vacated.

Order Date :- 1.11.2023

Junaid