

Court No. - 90

Case :- APPLICATION U/S 482 No. - 30060 of 2019

Applicant :- Shiv Kumar Pandey @ Munna Pandey

Opposite Party :- State Of U.P. And 2 Ors

Counsel for Applicant :- Bhuriguram Ji

Counsel for Opposite Party :- G.A., Shashi Shekhar Maurya

Hon'ble Vinod Diwakar, J.

1. Shri Bhuriguram Ji, learned counsel for the applicant states that the instant petition is pending since 2019, and numerous times the matter was listed but could not be taken heard.

2. As the service on respondent no.2 was not effected, however, respondent no.3, who was not party before the trial court, has filed counter affidavit in support of the contentions raised by learned counsel for the petitioner.

3. Shri Shashi Shekhar Maurya, learned counsel for the respondent no.3 has put his appearance and states that he is manufacturer of Gur and has sold Gur for Rs.6,72,000/- in the year 2012 through respondent no.2 to the petitioner, and has already received the entire payment. He further states that the Gur was sold through respondent no.2, who is a broker and was working for him on a commission basis.

4. On perusal of the record, it transpires that the matter was sent for mediation and respondent no.2 had appeared, but the parties could not reach to any settlement.

5. On pointing out by the Court, learned counsel for the applicant states that inadvertently in previous orders, the presence of respondent no.2 has been recorded, in fact it should be the presence of respondent no.3.

6. Learned counsel for the respondent no.3 has also not denied this fact. As the respondent no.2 is not appearing before this Court, and avoiding the services, and the service record continuously shows that the service could not be effected as the respondent no.2 was not found available many times but copy of the summons was made *chaspā* at the shop.

7. In view of the facts stated herein above, it seems that the respondent no.3 has lost his interest in pursuing the instant case.

8. In such view of the matter, the instant application is **dismissed** for non prosecution at the behest of respondent no.2.

9. It is provided that if the respondent no.2 is aggrieved by this order, a liberty is granted to him to file appropriate application before this Court in accordance with law.

Order Date :- 2.12.2023

Anil K. Sharma

[Vinod Diwakar, J.]