

Court No. - 1

Case :- MATTERS UNDER ARTICLE 227 No. - 8426 of 2023

Petitioner :- Ramchet And 6 Others

Respondent :- Kolahal And 6 Others

Counsel for Petitioner :- Anand Kumar Tripathi

Counsel for Respondent :- Ritesh Singh, Suresh Singh

Hon'ble Jayant Banerji, J.

1. A supplementary affidavit filed today is taken on record.

2. Heard learned counsel for the petitioner.

3. This petition has been filed seeking the following relief:

"(i) To quash the impugned order/decreed dated 27.04.2023 and 29.04.2023 passed by the Additional District and Sessions Judge/Fast Track Court No. 2, Gorakhpur in Civil Revision No. 07 of 2023 (Ramsurat Vs. Laldei), as well as order dated 07.11.2022 passed by the Civil Judge (Senior Division)/Additional Chief Judicial Magistrate, Bansaon, Gorakhpur in Original Suit No. 352 of 1987 (Kolahal Vs. Ramsurat), to secure the ends of justice.

(ii) To pass any other order or direction which this Hon'ble court may deem fit and proper under the facts and circumstances of the case in the interest of justice."

4. Under challenge are the orders dated 7.11.2022, whereby, the application 146A2 filed by the plaintiff-respondents has been allowed, whereby amendments were permitted to be made in a substitution application 27A2. Further, under challenge is an order dated 27.4.2023 and the consequent formal order dated 29.4.2023 passed in Civil Revision No. 7 of 2023 filed by the defendant-petitioners challenging the order dated 7.11.2022, by means of which, the revision was dismissed and the order of the trial court dated 7.11.2022 was affirmed.

5. It appears from the record that the application 27A was initially allowed by the trial court on 11.9.1995 but, in a civil revision, the District Judge by means of an order dated 21.12.1996, set the order aside and directed that the application be decided afresh. It appears from the order dated 9.8.2018 that has been enclosed as Annexure No. 3 to this petition that evidence is to be led with respect to proceeding under Order 22 Rule 5 CPC. The application 146A has

been enclosed as Annexure No. 4 to this petition which appears to be one under Order 22 Rule 3 CPC seeking to amend the application 27A seeking to write the word 'deceased' against the proposed plaintiff no. 1/1/1, Kalawati Devi and to substitute five others as plaintiffs. By the impugned order dated 7.11.2022, the trial court noted that the application 27A2 is yet to be decided and the matter is one of the oldest cases and accordingly, the application 146A2 was allowed. The revision was dismissed holding that the application for substitution 27A2 is still pending and that the application 27A2 has not been decided on merits and the parties will have a right to led oral and documentary evidence and argue the matter. Thus, there is no legal error in the order of the trial court dated 7.11.2022.

6. I find no error in the orders impugned that would merit interference. This petition is, accordingly, **dismissed**.

Order Date :- 20.11.2023

A. V. Singh

(Jayant Banerji, J.)