

Court No. - 1

Case :- MATTERS UNDER ARTICLE 227 No. - 8530 of 2023

Petitioner :- Satya Narayan (Deceased) And 2 Others

Respondent :- Jayram And 7 Others

Counsel for Petitioner :- Alauddin,Fakhruddin

Hon'ble Jayant Banerji,J.

Heard Sri Alauddin Khan, learned counsel appearing for the petitioners.

The petitioners are decree holders, who were substituted after the death of their father, who was the original decree holder and who had filed Execution Case No. 8 of 1990 in the court of Civil Judge (Junior Division), Naugarh, District Siddharth Nagar.

This petition has been filed for a direction to decide Execution Case No. 8 of 1990.

Pursuant to previous order of this Court dated 25.8.2023, the District Judge, Siddharth Nagar has submitted a report on 8.9.2023 which has been perused by me. Evident it is from the report that the decree holder has been negligent in pursuing the execution case and, as a matter of fact, the execution case was dismissed twice for non-prosecution and was restored after much delay.

It appears that now, an application under Order 9 Rule 13 CPC has been filed alongwith an application under Section 5 of the Limitation Act by the judgment-debtor against the exparte decree dated 7.11.1989.

When queried, learned counsel for the petitioner has not been able to show that the fact of filing of application under Order 9 Rule 13 CPC has been mentioned in this petition. The petitioners have not made complete disclosure of fact in this petition.

Be that as it may, the execution case is pending since the year 1990 which is a substantial period of time. Under the circumstances, it is directed that since an application under Order 9 Rule 13 CPC has been filed alongwith an application under Section 5 of the Limitation Act, the concerned court is required to consider application as per law, expeditiously, without granting any unnecessary adjournment to either of the parties.

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

Order Date :- 26.10.2023

sfa/

(Jayant Banerji, J)