

Court No. - 1

Case :- MATTERS UNDER ARTICLE 227 No. - 9095 of 2023

Petitioner :- Umashankar Prasad Gupta (Since Deceased) And 2 Others

Respondent :- Ashok Kumar Gupta And 10 Others

Counsel for Petitioner :- Archana Srivastava

Hon'ble Jayant Banerji,J.

1. 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. Issue a petition, order or direction to direct Civil Judge (Senior Division) Court No. 1, Varanasi to decide the Original Suit No. 184 of 2001, (Umashankar Vs. Ashok Kumar Gupta and others) within stipulated period as fixed by this Hon'ble Court.

II. Issue a writ, any other petition, order or direction as this Hon'ble Court may deem fit and proper in the circumstances of the case to meet the ends of justice."

4. The contention of the learned counsel for the petitioner is that the suit for specific performance was filed in the year 2001, but despite the issues being framed on 12.3.08, the case is not being decided. It is stated that the court had recorded on 9.10.2014 that the plaintiff had concluded his evidence and the matter is fixed for evidence of the defendant. It is stated that thereafter, an application 74C was submitted on behalf of the defendants seeking to cross-examine the PW-1. The court noted that after 125 dates being fixed, since the PW-1 was not cross-examined, the opportunity to cross-examination was closed. However, the application 74C was allowed with cost of Rs. 300 and he was permitted to cross-examine the PW-1. But even thereafter, the cross-examination of the PW-1 was delayed time and again and on the basis of alleged negotiations for compromise between the parties, the case was being adjourned. It is stated that now the case is listed for ex-parte arguments.

5. Under the circumstances, it would not be appropriate to issue any specific direction upon the court concerned. However,

considering that the suit is pending since the year 2001, this Court requires the trial court to ensure that the suit proceedings are brought to its logical conclusion, without entertaining unnecessary adjournments from the parties, in case there is no legal impediment in proceeding further and all the parties are duly served with notice of the proceeding.

6. With the aforesaid observation, the petition is **disposed of**.

Order Date :- 12.12.2023

A. V. Singh

(Jayant Banerji, J.)