Court No. - 1

Case :- MATTERS UNDER ARTICLE 227 No. - 9061 of 2023

Petitioner :- Indrajeet Chugh
Respondent :- Smt. Chayanika
Counsel for Petitioner :- Chhaya Gautam,Akshat Sinha,Sanyukta Singh

Hon'ble Jayant Banerji,J.

1. Heard learned counsel for the petitioner.

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

"It is, therefore, Most Respectfully prayed that this Hon'ble Court may graciously be please to:- Issue an order or direction upon the learned Court directing the learned Court to hear and decide the original case no. 925 of 2015 (Miscellaneous case no.62 of 2022) (Indrajeet Chugh vs Smt. Chayanika) pending before the Court of Family Judge, Saharanpur within a stipulated period and/or pass such other or further orders as this Hon'ble Court may deem fit and proper in the circumstances of the case, otherwise the petitioner shall suffer irreparable loss and injury."

3. It appears from the record that by an order dated 11.5.2022, an application paper No.103Gha was considered in which it was prayed that the case be adjourned and an amount of Rs.5000/- as cost, that was fixed by an order dated 25.4.2022, be excused. The Family Court observed that the petition is pending since the year 2015 and since 25.2.2020, the case is being listed for *ex-parte* evidence of the plaintiff. The court noted that even earlier, the plaintiff had not appeared and he had filed an application for adjournment on 21.4.2022, which was rejected but on 24.4.2022 also the plaintiff did not appear and he filed an adjournment application paper No.102Gha, which was allowed by the court with cost of Rs.5000/- and he was afforded opportunity to appear as a last opportunity and give his evidence, but he did not appear before the court. The court noted that the medical reports filed by him did not disclose that his mother was admitted in any hospital. The plaintiff, it was noted, had not complied with any order of the court. The case was being adjourned by him for period of two years without any basis and the case was being listed for *ex-parte* hearing. It appeared to the court that the plaintiff was unnecessarily trying to delay the outcome of the case and the application No.103Gha had no valid ground for it to be allowed.

The petition/suit was, accordingly, dismissed.

4. It appears that thereafter an application under Order IX rule 4 read with Section 151 CPC was filed by the petitioner, which was registered as Miscellaneous Case No. 62 of 2022. By a detailed order dated 28.7.2022, the Family Court rejected the application. While rejecting the application 4A filed under Order IX Rule 4 CPC, the Family Court has dwelt at length on the recalcitrant attitude of the petitioner in repeatedly not appearing before the court and not complying with its orders. It was noted that the adjournment application No.102Gha was allowed subject to payment of cost of Rs.5000/- which was not deposited. It was further noted that the amicus curiae who was engaged on behalf of the plaintiff was also not arguing the matter and neither was the plaintiff appearing. The court noted that for continuously two years, the plaintiff not appearing in the matter was inexplicable and, accordingly, the application was rejected.

5. It appears that thereafter an application dated 15.9.2022 under Order XLVII for review of the order dated 28.7.2022 was filed along with an application under Section 5 of the Limitation Act. This case was registered as Miscellaneous Case No. 110 of 2022 and is pending.

6. Under the circumstances, the relief sought for in the present petition is ill-advised and misconceived. No interference is called for and this petition is, accordingly, **dismissed**.

Order Date :- 21.11.2023
K.K.Tiwari

(Jayant Banerji, J.)

Digitally signed by :-
KRISHNA KANT TIWARI
High Court of Judicature at Allahabad