

Court No. - 1

Case :- MATTERS UNDER ARTICLE 227 No. - 10133 of 2023

Petitioner :- Jayant Chivate

Respondent :- Avinash Chivate

Counsel for Petitioner :- Saurabh Srivastava

Hon'ble Jayant Banerji,J.

1. Heard learned counsel for the petitioner.

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

"I. to issue a suitable order, directing the court of Civil Judge (Senior division) Judge Small Causes Court, Court No. 1, Agra to decide misc. case No. 573/2018 (Jayant Chivate Vs. Avinash Chivate) expeditiously preferably within a stipulated period of 06 months in which of substantial dispossession."

2. Learned counsel states that after a preliminary decree was made in a suit for partition pursuant to a judgment and order dated 2.4.2018 in Original Suit No. 962 of 2010 (Jayant Chivate Vs. Avinash Chivate) by the Additional Civil Judge (Senior Division), Court No. 5, Agra, objections were invited and an application was filed bearing Paper No. 4C and the proceedings were registered as Misc. Case No. 573 of 2018. It is stated by the learned counsel that the Amin report specifying the lots bearing Paper No. 11C was affirmed by the order of the court dated 6.7.2023. It is stated that the matter is now pending in the court of the Judge, Small Cause, Agra but it is not being decided.

3. A perusal of the certified copy of the order-sheet reflects that after 6.7.2023, an objection and an application bearing Paper Nos. 16C and 17C were filed and 23.8.2023 was the next date fixed. On 23.8.2023, the plaintiff sought decision on the application filed by the defendant bearing Paper No. 18C but no one was present on behalf of the defendant to press the Paper No. 18C. The case was accordingly adjourned to be listed on 18.9.2023.

4. It is thus evident that after the report of the Amin was affirmed, the Court is proceeding with considering certain applications on record. As such, the relief as prayed for in this petition cannot be granted. However, it is open for the petitioner to move an application before the court concerned for expeditious

consideration of the miscellaneous case aforesaid. If such an application is filed, the same would be considered by the court duly.

5. This petition is, accordingly, **disposed of**.

Order Date :- 2.12.2023

A. V. Singh

(Jayant Banerji, J.)