

Court No. - 44

Case :- MATTERS UNDER ARTICLE 227 No. - 10943 of 2023

Petitioner :- Hosiya Singh And Another

Respondent :- Khem Chandra And 3 Others

Counsel for Petitioner :- Dinesh Kumar Mishra

Hon'ble Ashutosh Srivastava,J.

1. Heard Shri Utkarsh Pandey, Advocate under the authority of Shri Dinesh Kumar Mishra, learned counsel for the petitioners.

2. Considering the nature of the order that is proposed to be passed by this Court, notice upon private respondents is being dispensed with.

3. The present petition under Article 227 of the Constitution of India has been filed for the direction to the Additional Civil Judge (J.D.), Court No. 2, Ghaziabad to conclude and decide the O.S. No. 507 of 2008 (Hosiya Singh and another vs. Khem Chandra and another) within the time frame fixed by this Court. Further prayer to direct the defendant - respondents not to interfere in the peaceful possession of the petitioner over the suit property Khata No. 1756, Khasra No. 47 area measuring 0.375 hectares situated at village Dasana, Pargana Dasana, Tehsil and District Ghaziabad till the disposal of the original suit, has also been prayed for.

4. Learned counsel for the petitioners submits that the suit in question was instituted for permanent injunction restraining the defendant -respondents from interfering in the rights of the petitioners over the suit property.

5. The trial court dismissed the suit vide judgement and decree dated 10.10.2013. However, in appeal preferred by the petitioners, the judgement decree of the trial court dated 10.10.2013 was set aside and the matter was remanded back to the trial court for deciding the suit afresh. Learned counsel for the petitioners submits that after remand the suit is pending for final argument since more than a year. He submits that the parties have already led their evidence and the witnesses have also been cross -examined and only final order are required to be passed after hearing the arguments. Since the suit is pending at the stage of argument since 02.04.2022 appropriate directions be issued to the court concerned

to expedite the proceedings and conclude the same within a time framed fixed by the Court.

6. In order to buttress his submissions learned counsel for the petitioners invited the attention of the Court to the order-sheet of the proceedings which have been brought on the record as Annexure no. 2 to the petition.

7. I have heard learned counsel for the petitioners and have perused the record.

8. From the order-sheet which has been brought on record as Annexure no. 2 to the petition, the submission advanced by the learned counsel for the petitioners are born out. The suit has been pending for final arguments since 20.04.2022 and several dates have been fixed for final arguments but the arguments have not been concluded.

9. In the opinion of the Court, considering the stage of suit proceedings, it is a fit case in which direction to expedite the proceedings can be ordered. Accordingly, the petition is disposed off by requiring the Additional Civil Judge (J.D.), Court No. 2, Ghaziabad seized with the proceedings of the Original Suit no. 507 of 2008 (Hosiya Singh and another vs. Khem Chandra and another) to proceed with the hearing and conclude the same expeditiously preferably within a period of six months from the date of service of certified copy of this order, without granting any unnecessary adjournment to either of the parties, in accordance with law.

Order Date :- 6.12.2023

Bhanu