

Court No. - 4

Case :- MATTERS UNDER ARTICLE 227 No. - 10684 of 2023

Petitioner :- Kedarnath Lakshmi Chand Dharmada Trust

Respondent :- Rupendra Singh

Counsel for Petitioner :- Arpit Agarwal, Akash Gupta

Hon'ble Prakash Padia, J.

1. Supplementary affidavit filed today is taken on record.

2. The petitioner has preferred present petition inter-alia with the following prayer :-

"i. Issue a direction commanding the Judge Small Cause Court, Bulandshahr to decide the S.C.C. Suit No.14 of 2019; Kedarnath Lakshmi Chand Vs. Rupendra Singh, expeditiously, in a fixed time frame as this Hon'ble Court may deem fit to fix, without granting unnecessary adjournment to the parties."

3. On the basis of averments made in paragraphs 5, 6 & 7 in the supplementary affidavit it is argued that in the present case there is extra-ordinary situation on account of which it is necessary for the court to decide the suit in question expeditiously. The paragraphs 5, 6 & 7 of the supplementary affidavits is reproduced hereinbelow :-

"5. That due to the aforesaid illegal construction of basement, there is a damage caused to the existing foundations of the property along with the adjacent properties of the petitioner.

6. That the basement area of the shop in dispute is required to be filled up but due to pendency of the aforesaid S.C.C. Suit, since last 3 years, the petitioner is unable to do so.

7. That due to the above mentioned extra ordinary situation, it is requested before the Hon'ble Court to direct the Judge Small Cause Court, Bulandshahr to decide the S.C.C. Suit No. 14 of 2019; Kedarnath Lakshmi Chand vs. Rupendra Singh expeditiously, in a fixed time frame as this Hon'ble Court may deem fit to fix, without granting unnecessary adjournment to the parties."

4. It is argued that issues has already been framed in the suit in the month of October, 2021 but till date no final decision has been taken.

5. In view of the order proposed to be passed herein, no useful purpose would be served by putting the respondent(s) to notice and keeping this petition pending before this Court. However, in case the respondent(s) feels aggrieved by the order his/her right to seek modification/variation of the order is being kept reserved.

6. Very recently Hon'ble Apex Court in ***Special Leave Petition (Civil) No(s). 38375 of 2023 (Mohd. Faiyaz Khan vs. State of U.P. and others)*** passed an order on 27.09.2023 stating therein that unless the situation is extraordinary, the Court should not direct any Court to decide any pending case in a time-bound manner. The order dated 27.09.2023 is quoted hereinbelow :-

"Heard the learned counsel appearing for the petitioner.

Unless the situation is extraordinary, this Court should not direct any Constitutional Court or for that matter, any Court, to decide any pending case in a time-bound manner. It cannot be that those who afford to come this Court, get priority and others wait in the queue.

No case for interference is made out in exercise of our jurisdiction under Article 136 of the Constitution of India. The Special Leave Petition is accordingly dismissed on ground of delay as well as on merits.

It is for the petitioner to move the High Court for expeditious hearing of the case.

Pending application(s) also stands disposed of."

7. The extra-ordinary situation is mentioned in the supplementary affidavit.

8. In the facts and circumstances of the case and in view of extra-ordinary situation, the present petition is disposed of directing the court concerned to decide the aforesaid case strictly in accordance with law most expeditiously and preferably within a period of six months from the date of receipt of certified copy of this order unless there is no legal impediment.

Order Date :- 17.10.2023

Pramod Tripathi