

Court No. - 4

Case :- MATTERS UNDER ARTICLE 227 No. - 10803 of 2023

Petitioner :- Om Prakash And Another

Respondent :- B.N. Public School And 3 Others

Counsel for Petitioner :- Arvind Srivastava

Hon'ble Prakash Padia,J.

1. The following order was passed on 16.11.2023:-

"1. After some arguments counsel for the petitioners confined his prayer only to the effect to direct the court below namely Additional District Judge/Judge, Small Causes Case, Court No.8, Deoria, to decide the application dated 19.03.2019, which was marked as Paper No.4/C filed under Order 9 Rule 13 read with Section 151 of the C.P.C.

2. It is argued by counsel for the petitioners that though the aforesaid suit was filed in the month of March, 2019 and various dates were fixed for final disposal but till date no decision has been taken in the aforesaid matter.

3. In this view of the matter and also in the interest of justice, Registrar (Compliance) is directed to communicate copy of this order to the court below namely Additional District Judge/Judge, Small Causes Case, Court No.8, Deoria or before whom matter is pending consideration through District Judge, Deoria within 24 hours.

4. The Additional District Judge/Judge, Small Causes Case, Court No.8, Deoria or before whom matter is pending consideration is directed to submit its report within two weeks.

5. Put up as fresh along-with report on 12.12.2023."

2. Pursuant to the same, the report submitted by the Additional District and Sessions Judge, F.T.C.-II, Deoria dated 07.12.2023 is already on record. The relevant portion of the aforesaid report reads as follows:-

"उपरोक्त के सन्दर्भ में सादर अवगत कराना है की प्रार्थी द्वारा इस न्यायालय का कार्यभार दिनांक - 22.11. 2023 को ग्रहण किया गया है। माननीय न्यायालय के आदेश के अनुपालन में पत्रावली प्रकीर्ण सिविल वाद सं० - 02/2019 का अवलोकन किया। पत्रावली के अवलोकन से विदित है की पत्रावली पर दिनांक - 14.09.2021 को प्रार्थना पत्र 30 ग निरस्त करते हुए अग्रिम तिथि 01.10.2021 नियत की गयी थी, न्यायालय के पूर्व पीठासीन अधिकारी के प्रशिक्षण एवं न्यायालय के रिक्त होने के कारण वाद की सुनवाई नहीं की जा सकी। प्रार्थी के कार्यभार ग्रहण किये जाने दिनांक पर ही अग्रिम नियत तिथि को लघु तिथि में परिवर्तित करते पक्षकारों के विद्वान अधिवक्ताओं को सूचित कर लंबित प्रार्थना पत्र अंतर्गत धारा- 5 सपठित धारा -14 मियाद अधिनियम के प्रार्थना की सुनवाई कर आदेश हेतु दिनांक -11.12.2023 नियत की गयी है। प्रकीर्ण वाद के शीघ्र निस्तारण का हर संभव प्रयास न्यायालय द्वारा किया जा रहा है। "

3. From perusal of the aforesaid, it is clear that undertaking has been given by the court below that the last date was fixed for hearing of the aforesaid application is 11.12.2023.

4. Shri Arvind Srivastava, learned counsel for the petitioner is not in a position to state before this Court that what decision has been taken on the last date in the aforesaid matter.

5. Since the Court is of the opinion that the court below be directed to decide the said application as early as possible.

6. In view of the same, the present petition is disposed of finally directing the court concerned to decide the aforesaid application without any further delay on a day to day basis, if possible within a period of six weeks from today but without granting unnecessary adjournment unless there is no legal impediment.

Order Date :- 12.12.2023

Swati