

Court No. - 44

Case :- MATTERS UNDER ARTICLE 227 No. - 11409 of 2023

Petitioner :- Rajendra And Another

Respondent :- Satya Narayan And Another

Counsel for Petitioner :- Santosh Kumar Mishra, Rituvendra Singh Nagvanshi, Sr. Advocate

Hon'ble Ashutosh Srivastava, J.

Supplementary affidavit, filed today, by Shri Rituvendra Singh Nagvanshi, learned counsel for the petitioners, is taken on record.

Heard Shri Rituvendra Singh Nagvanshi, learned counsel for the petitioners.

The present petition, under Article 227 of the Constitution of India has been filed for a direction to the District judge, Deoria, to decide the stay application (paper no. 6-C), filed in Civil Appeal No. 32 of 2023 (Rajendra and others vs. Satya Narayan and others), filed by the petitioners, assailing the order dated 04.10.2023 passed by the Executing Court, in Execution Case No. 2 of 2019, arising out of Original Suit No. 579 of 2011.

Learned counsel for the petitioners submits that the Civil Appeal No. 32 of 2023 had been admitted by the learned District Judge, vide order dated 22.11.2023 and thereafter 27.11.2023 was fixed for consideration of the stay application (paper no. 6-C) filed in the said Civil Appeal. He submits that the opposite parties, in Civil Appeal, have already put in their appearance and now 14.12.2023 has been fixed for consideration of the stay application (paper No. 6-C). He further submits that the purpose of filing the present petition would stand served if appropriate directions are issued to the Court in *seisin* of the proceedings to consider and pass appropriate orders of the stay application (paper no. 6-C) on the date fixed or within a reasonable time fixed by this Court.

I have heard learned counsel for the petitioner and perused the record.

From the supplementary affidavit, filed today, annexing the order sheet of the proceeding, it is borne out that the Appeal filed by the petitioners has been admitted by order dated 22.11.2023 and the

Court being of the view that the stay application would be considered only after the respondents in Appeal put in appearance and fixed 27.11.2023 for the said purpose. The order sheet further reveals that the opposite parties in the Appeal have put in appearance and 14.12.2023 is fixed for consideration of the stay application.

In view of the above, in the opinion of the Court ends of justice would stand served if the directions are issued to the District judge, Deoria to decide stay application (paper no. 6-C) in the aforesaid Appeal. Accordingly, petition is ***disposed off*** with a direction to the District Judge, Deoria, seized with the Civil Appeal No. 32 of 2023 (Rajendra and others vs. Satya Narayan and others), to consider and pass appropriate orders on the next date fixed i.e. 14.12.2023, on the stay application (paper no. 6-C), or within two weeks from the date fixed upon service of certified copy of the order of this Court, in accordance with law, without granting unnecessary adjournment to either of the parties.

Order Date :- 13.12.2023

Deepak/