

Court No. - 4

Case :- MATTERS UNDER ARTICLE 227 No. - 11657 of 2023

Petitioner :- Bhimsen Maurya

Respondent :- Shri Radha Krishna Thakur Ji Maharaj And Shivaji Maharaj And Another

Counsel for Petitioner :- Amit Kumar Singh

Hon'ble Prakash Padia,J.

1. It is argued by learned counsel for the petitioner that the petitioner namely Bhimsen Maurya is plaintiff in Original Suit No.2034 of 2019 (Bhimsen Maurya Vs. Shri Radha Krishna Thakur Ji Maharaj through Purshottam Goel) and he has filed the aforesaid suit with the prayer to restrain the respondents/defendants to evict the petitioner/plaintiff from the house and also restrain to destroy the house situated at Village Garulpaar Tappa Gobrai Pargana Salempur Majhauri Tehsil and District Deoria.

2. After some time, an application was filed by the plaintiff-petitioner in the aforesaid suit on 13.12.2019 with the prayer to dismiss the aforesaid suit as not pressed. It is argued that more than three years have been lapsed from filing of the aforesaid application but till date no decision has been taken by the Court below. It is further argued that today the date is fixed in the matter before the Court below.

3. It is settled law that plaintiff in the suit can withdraw the suit at any point of time. It is unfortunate that the application for withdrawal of the suit was filed unconditionally and the same is still pending, the Court is of the prima facie opinion that such application should be decided without granting any unnecessary

adjournment.

4. In this view of the matter and the fact that the matter has been fixed before the Court below today itself, the Court below, i.e. Civil Judge (Junior Division) Court No.10 Deoria or before whom the matter is pending is directed to decide the withdrawal application, if possible, today itself. In case, on account of any reason, the withdrawal Application is not decided today, the same shall be decided within a period of two weeks thereafter.

5. Registrar (Compliance) is directed to communicate a copy of this order to the Civil Judge (Junior Division) Court No.10 Deoria or before whom the matter is pending through District Judge Deoria by 1.00 P.M. today itself.

6. With the aforesaid observations, the petition is disposed of.

Order Date :- 17.11.2023

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