

Court No. - 44

Case :- MATTERS UNDER ARTICLE 227 No. - 11968 of 2023

Petitioner :- Pradeep Kumar

Respondent :- Smt Seema

Counsel for Petitioner :- Anil Kumar

Counsel for Respondent :- C.S.C.

Hon'ble Ashutosh Srivastava,J.

Heard Shri Anil Kumar, learned counsel for the petitioner.

Considering the nature of the order that is proposed to be passed, the service of notice upon respondent is being dispensed with.

The present petition under Article 227 of the Constitution of India has been instituted for a direction to the Principal Judge, Family Court, Kasganj to decide the Case No. 336 of 2022 (Pradeep Kumar versus Smt. Seema) under Section 13 of the Hindu Marriage Act within a time frame fixed by this Court.

Learned counsel for the petitioner submits that petitioner's marriage was solemnized with the opposite party on 14.5.2007 as per Hindu rites and rituals. The petitioner is employed as Police Constable in the U.P. Police. The opposite party is working as Shiksha Mitra in Nawabganj, District Farrukhabad. After the marriage, she is living in her parental house. The respondent has been living separate from the petitioner since 18.6.2018. The petitioner in the aforesaid circumstances, earlier instituted a case under Section 9 of the Hindu Marriage Act for restitution of conjugal rites, which proceedings were registered as Case No. 377 of 2020. In the said case, the opposite party-respondent despite the notices being issued to her, did not appear. Since the opposite party did not respond with the said proceedings, the petitioner has instituted a suit No. 336 of 2022 seeking annulment of marriage with the respondent. He, thus, submits that in the aforesaid suit under Section 13 of the Hindu Marriage Act, notices have been issued, but the same has not been accepted by the respondent. A publication in the local newspaper was also done, but despite the said fact, the opposite party has not appeared in the proceedings. The proceedings are pending for filing of the written statement by the opposite party and various dates in that regard is being fixed by the Principal Judge, Family Court, Kasganj.

He submits that purpose of filing the present petition would stand served, if appropriate directions are issued to the Principal Judge, Family Court, Kasganj seized with the proceedings of Case No. 336 of 2022 (Pradeep Kumar versus Smt. Seema) under Section 13 of the Hindu Marriage Act to decide the same within a time frame fixed by this Court.

In order to buttress his argument, learned counsel for the petitioner has invited the attention of this Court to various orders passed by the Principal Judge, Family Court, Kasganj particularly to order dated 6.4.2023 whereunder the notices upon the respondent was held to be sufficient as also to other orders which show that the proceedings are being fixed for the purpose of filing of the written statement.

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

From the record, it is more than apparent that the opposite party is not interested in appearing in the case inasmuch as despite service of notice, the opposite party has not put in appearance nor filed written statement. In the proceedings for restitution of conjugal rights also the opposite party had not appeared. So far as the present proceedings are concerned, the Court below has already held that notice upon the respondent-opposite party to be sufficient and has also fixed the case for filing the written statement and several dates has been fixed in this regard, but the opposite party has neither appeared nor filed written statement.

Considering the mandate of Section 21B (2) of Hindu Marriage Act, which contemplates that the proceedings should be brought to its logical end within a period of six months, this Court is of the opinion that in the facts and circumstances, that stand attracted to the case of the petitioner, it is a fit case in which indulgence may be granted by this Court for expediting the proceedings.

Accordingly, the petition is ***disposed of*** by requiring the Principal Judge, Family Court, Kasganj seized with the case No. 336 of 2022 (Pradeep Kumar versus Smt. Seema), under Section 13 of the Hindu Marriage Act to conclude and decide the same within a period of six months from the date of 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 :- 28.11.2023

Ravi Prakash

(Ashutosh Srivastava, J.)