

Court No. - 44

Case :- MATTERS UNDER ARTICLE 227 No. - 11934 of 2023

Petitioner :- Smt. Manju Singh And Another

Respondent :- Competent Authority Additional District Magistrate And 5 Others

Counsel for Petitioner :- Pramod Kumar Pandey

Counsel for Respondent :- C.S.C.,A.S.G.I.,Adarsh Bhushan,Anoop Tiwari,Sanjay Kumar Singh

Hon'ble Ashutosh Srivastava,J.

Heard Shri Pramod Kumar Pandey, learned counsel for the petitioner, Shri Anoop Tiwari, learned Central Government Counsel for respondent No.2-Union of India and Shri Adarsh Bhushan, learned counsel for respondent No. 3-NHAI.

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

The present petition under Article 227 of the Constitution of India has been instituted for a direction to the Civil Judge (Jr.Div.), Court No. 6, Ghazipur for expeditious disposal of the Original Suit No. 372 of 2019 (Manju Singh and another versus Competent Authority/Additional District Magistrate (Finance & Revenue) Ghazipur and others) within the time frame fixed by this Court.

Learned counsel for the petitioner submits that the suit has been filed for relief of declaration and for injunction. Despite various orders being passed, the contesting defendants-respondents have not appeared in the proceedings and the proceedings of the suit are unnecessarily being delayed, affecting the rights of the plaintiffs and in such view of the matter, a direction for expeditious disposal of the suit proceedings be ordered.

Per contra, Shri Adarsh Bhushan, learned counsel for respondent No. 3 submits that the suit was directed to proceed exparte vide order dated 29.7.2022. However, the said order has been recalled permitting the defendants to file written statement and in pursuance thereof, written statement has been filed. Shri Bhushan submits that the suit is not maintainable in view of express bar contained in Section 15 of The Control of National Highways

(Land & Traffic) Act, 2002, which bars the jurisdiction of the Civil Court to entertain any suit with regard to National Highways. No Court (except the Supreme Court or High Court exercising jurisdiction under Articles 226 and 227 of the Constitution) or other Authority, except the Tribunal, are entitled to exercise jurisdiction in relation to matters specified in Section 14. Shri Bhushan submits that he has no objection for expediting the proceedings of the present suit.

Having heard learned counsel for the parties and having perused the record as also taking note of the stand taken by the respondent No. 3 in written statement filed before the Court below, this Court is of the opinion that the proceedings of the present suit can be expedited by requiring the Civil Judge (Jr.Div.), Court No. 6, Ghazipur to frame a preliminary issue regarding its jurisdiction to deal with the issues involved in the suit in terms of the objection of the defendant No. 3 taken in Paragraph 13 of the written statement and proceed to decide the said issue of jurisdiction within two months, in accordance with law, without granting any unnecessary adjournments to either of the parties.

Ordered accordingly.

Order Date :- 2.12.2023

Ravi Prakash

(Ashutosh Srivastava, J.)