

Court No. - 44

Case :- MATTERS UNDER ARTICLE 227 No. - 11878 of 2023

Petitioner :- Brajlal

Respondent :- Ramkishun

Counsel for Petitioner :- Mustaqeem Ahmad

Hon'ble Ashutosh Srivastava,J.

Heard Shri Mustaqeem Ahmad, learned counsel for the petitioner.

The present petition under Article 227 of the Constitution of India has been filed for a direction to the learned Civil Judge (Jr.Div.), Mahoba to decide the restoration application registered as Misc. Case No. 58/74/23 (Brij Lal versus Ramkishun) under Order 9 Rule 13 CPC for setting aside the exparte decree passed in Original Suit No.95/21 dated 26.3.2021.

By order dated 23.11.2023, learned counsel for the petitioner was directed to bring on record, the order sheet in respect of the proceedings in the said Misc. Case. A supplementary affidavit has been filed, which is taken on record, bringing on record, the order-sheet of the said case. The order-sheet reveals that the application under Order 9 Rule 13 CPC has been filed along with an application under Section 5 of the Limitation Act for condoning the delay. The said application has been fixed for 11.12.2023 for its consideration.

Learned counsel for the petitioner submits that purpose of filing the present petition would stand served, if appropriate directions are issued to the Court concerned to take up the matter on the date fixed and decide the same within the time frame fixed by this Court.

Having heard learned counsel for the petitioner and having perused the record, this Court is of the opinion that the present petition can be disposed of by requiring the learned Civil Judge (Jr.Div.), Mahoba, seized with the Misc. Case No. 58/74/23 filed under Order 9 Rule 13 CPC, which has now been fixed for 11.12.2023 for consideration of Section 5 application, to consider and decide the same, expeditiously preferably on the date fixed or within a month from the date fixed.

Learned counsel for the petitioner may file certified copy of the order of this Court and all endeavour shall be made by the Court concerned to decide the proceedings within the time allowed.

With the aforesaid observations/directions, the writ petition stands ***disposed of***.

Order Date :- 28.11.2023

Ravi Prakash

(Ashutosh Srivastava, J.)