

**Court No. - 44**

**Case :-** MATTERS UNDER ARTICLE 227 No. - 11920 of 2023

**Petitioner :-** Smt.Prem Kumari @ Premi

**Respondent :-** Santosh Kumar Pandey

**Counsel for Petitioner :-** Jitendra Kumar

**Hon'ble Ashutosh Srivastava,J.**

Heard Shri Jitendra 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 filed for expeditious disposal of Original Suit No. 33 of 2020 (Smt. Prem Kumari @ Premi versus Santosh Kumar Pandey) pending before the Civil Judge (Sr.Div.), Ballia.

Learned counsel for the petitioner submits that the property in question is the ancestral property of the petitioner. The mother of the petitioner has executed a registered will deed in favour of the petitioner bequeathing the entire suit property in her favour. The defendant-respondent, who happens to be the cousin of the petitioner, has asserted his rights over the said property on the basis of Memorandum of Partition dated 30.8.2016. Learned counsel for the petitioner submits that mother of the petitioner expired on 25.8.2019 whereafter a dispute as regards the property arose. The defendant-respondent on the strength of the Memorandum of Partition dated 30.8.2016 has got his name mutated in the property and is interfering in the rights and peaceful enjoyment of the property by the petitioner. In these circumstances, the petitioner has instituted the suit in question for a declaration to declare the Memorandum of Partition dated 30.8.2016 as null and void.

Learned counsel for the petitioner has invited the attention of this Court to the proceedings of the suit by filing the order-sheet as Annexure-2 to demonstrate that the respondents has already put in appearance and filed written statement. The issues have already been framed by the Court concerned by order dated 19.4.2023 and the matter is pending for consideration of the issues, so framed.

Learned counsel for the petitioner submits that the defendant-respondent is adopting the delaying tactics and is intending to frustrate the suit and in such circumstances, a direction for expeditious disposal of the suit has been prayed for.

This Court is conscious of the position of law that directions for expeditious disposal of the suit proceedings should be issued with the great care and circumspection. The power is to be exercised in extraordinary circumstances and not in a routine manner.

Considering the totality of the circumstances, the Court is of the opinion that since the defendant-respondent, who is the only contesting respondent has appeared in the proceedings and has already filed written statement and stage of the suit is on consideration of the issues so framed, the Court is of the opinion that proceedings of the suit can be expedited.

Accordingly, petition is ***disposed of*** requiring the Civil Judge (Sr.Div.), Ballia, seized with the Original Suit No. 33 of 2020 (Smt. Prem Kumari @ Premi versus Santosh Kumar Pandey) to expedite the proceedings and make all endeavour to decide the same as early as possible, without granting any undue adjournment to either of the parties and if at all, any adjournment is required to be granted, the same may be granted by imposing heavy costs.

**Order Date :- 2.12.2023**

Ravi Prakash

(Ashutosh Srivastava, J.)