

Court No. - 44

Case :- MATTERS UNDER ARTICLE 227 No. - 11978 of 2023

Petitioner :- Shashi Bhushan Dwivedi

Respondent :- Smt. Shivanand Pandey And 26 Others

Counsel for Petitioner :- Rajan Tripathi

Hon'ble Ashutosh Srivastava,J.

1. Heard Shri Rajan Tripathi, learned counsel for the petitioner.
2. Considering the nature of the order proposed to be passed notice upon the private respondent nos. 1 to 27 is hereby dispensed with.
3. Present petition, under Article 227 of the Constitution of India, has been filed seeking direction to the learned Civil Judge (Senior Division), Court No.1, Kanpur Nagar, to consider and decide the execution case No. 31 of 2017 (Kripashanker Dwivedi Vs. Smt. Shivanand and others) within the stipulated time frame fixed by this Court.
4. Learned Counsel for the petitioner submits that the execution case in question has been filed for executing the decree dated 28.2.2013 passed in Original Suit No.520 of 1979 whereby the Suit for specific performance has been decreed.
5. Learned Counsel for the petitioner submits that though the sale-deed has been executed in favour of the petitioner, the possession of the subject matter of the sale-deed has not yet been delivered and the execution case in question is pending for the said relief.
6. Learned Counsel for the petitioner has invited the attention of the Court to the order-sheet of the proceedings of the execution case which has been brought on record as Annexure-2 to the petition to demonstrate that the judgment debtor has already put in appearance and under order dated 16.10.2021 the process has already been issued. No Objection has been filed by the judgment debtor. Thereafter, the case is being lingered on some pretext or the other.
7. Having heard learned Counsel for the petitioner and having perused the record, this Court is of the opinion that the proceedings of execution case is liable to be expedited in view of

the judgment of the Apex Court in the case of Rahul S. Shah Vs. Jitendra Kumar Gandhi and others, (2021) 6 SCC 418, wherein the Apex Court has clearly laid down that execution proceedings should be brought to its logical end within 6 months from the date filing which may be extended only by recording reasons in writing for such delay. From the order-sheet, it is apparent that Parwana has already been issued by the executing court and the execution proceedings are on the verge of completion.

8. In such view of the matter, this petition is disposed of requiring learned Civil Judge (Senior Division), Court No.1, Kanpur Nagar, seized with execution case No. 31 of 2017 (Kripashanker Dwivedi Vs. Smt. Shivanand and others) to conclude and decide the case expeditiously preferably within a period of 3 months, from the date of production of certified copy of order of this Court, strictly in accordance with law.

9. With the aforesaid observations, the petition is disposed of, accordingly.

Order Date :- 30.11.2023

Irshad