

Court No. - 44

Case :- MATTERS UNDER ARTICLE 227 No. - 12095 of 2023

Petitioner :- Rajendra Kumar

Respondent :- Smt. Sandhya Rani

Counsel for Petitioner :- Awadh Bihari Pandey

Hon'ble Ashutosh Srivastava,J.

Heard Shri Awadh Bihari Pandey, 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 Addl. Principal Judge, Family Court, Room No. 2, Kanpur Nagar to decide the Case No. 884 of 2019 (Rajendra Kumar versus Sandhya Rani) under Section 13 of the Hindu Marriage Act within a time frame fixed by this Court.

Learned counsel for the petitioner submits that after the death of first wife, petitioner has solemnized second marriage with respondent on 9.12.2017 as per Hindu rituals and rites. Soon after marriage, respondent started quarreling with the petitioner and denied to live with petitioner and his daughter and after sometimes, she left her matrimonial home. Thereafter, petitioner filed the present suit and respondent has put in appearance. After appearance, respondent moved an application for interim maintenance and the same has been allowed by the Court below vide order dated 18.2.2021 and the case was listed for filing written statement and several dates have been fixed in the case. But respondent did not file written statement and Court below after completing formalities, proceeded ex parte against the respondent vide order dated 13.7.2022. The respondent filed a recall application seeking recall of ex parte order dated 13.7.2022 and the same was ordered to be recalled after imposing Rs.400/- as costs by the Court below vide order dated 25.8.2022. After framing of issues, examination-in-chief of PW-1 was recorded. Thereafter, respondent is not cross examining PW-1 and avoiding the same on one pretext or the another.

Learned counsel for the petitioner submits that purpose of filing the present petition would stand served, if appropriate directions are issued to the Addl. Principal Judge, Family Court, Room No. 2, Kanpur Nagar seized with the proceedings of Case No. 884 of 2019 (Rajendra Kumar versus Sandhya Rani) 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 Court concerned.

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 defending the case and is lingering on the matter on one pretext or the another. Several dates in the case has been fixed by the Court below.

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 Addl. Principal Judge, Family Court, Room No. 2, Kanpur Nagar seized with the Case No. 884 of 2019 (Rajendra Kumar versus Sandhya Rani) 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 :- 29.11.2023
Ravi Prakash

(Ashutosh Srivastava, J.)