

Court No. - 44

Case :- MATTERS UNDER ARTICLE 227 No. - 12150 of 2023

Petitioner :- Mahadev (Since Deceased) And 5 Others

Respondent :- Sangam Lal And 3 Others

Counsel for Petitioner :- Vijay Kumar Mishra

Hon'ble Ashutosh Srivastava,J.

1. Heard Shri Vijay Kumar Mishra, learned counsel for the petitioners.
2. Considering the nature of the order proposed to be passed notice upon the private respondents is hereby dispensed with.
3. Present petition, under Article 227 of the Constitution of India, has been filed for direction to the Competent Court to decide the Misc. Case No. 144 of 2011 (Shivpujan and others vs. Sangam Lal and others), under Order 9 Rule 9 C.P.C. arising out of Original Suit No. 34 of 1997, within a time frame fixed by this Court.
4. Learned counsel for the petitioner submits that original suit no. 34 of 1997, which was instituted by one Mahadeo for cancellation of the sale deed dated 21.01.1994 during the pendency of the aforesaid suit, Mahadev expired and meanwhile before the heirs can be brought on record, the suit was dismissed by order dated 11.08.2011 in default and an application under order 9 Rule 9 C.P.C. was filed for recall of the order dated 11.08.2011 by the heirs of the late Mahadev who had died on 09.11.2010. The said application is pending consideration and even after passage of more than 12 years the same has not been decided.
5. Learned counsel for the petitioner submits that the other side has already put in appearance in the proceedings and the purpose of filing the present petition stands served if appropriate direction is issued to the competent Court seized with the application under order 9 Rule 9 C.P.C. registered as Misc. Case No. 144 of 2011 to expedite the proceedings.
6. I have heard learned counsel for the petitioner and have perused the record.
7. From the record it transpire that the application under order 9

Rule 9 C.P.C. registered as Misc. Case No. 144 of 2011 in Original Suit No. 34 of 1997 pending consideration for last more than 12 years, this Court is of the opinion that the present petition may be disposed of by requiring the Competent Court seized with the Misc. Case No. 144 of 2011 (Shivpujan and others vs. Sangam Lal and others), arising out of Original Suit No. 34 of 1997 to take up the said application and pass appropriate orders expeditiously preferably within a period of two months from the date of service of certified copy of the order of this Court in accordance with law.

Order Date :- 13.12.2023

Bhanu