

Court No. - 44

Case :- MATTERS UNDER ARTICLE 227 No. - 12384 of 2023

Petitioner :- Anand Kumar

Respondent :- Ram Sewak And 4 Others

Counsel for Petitioner :- Anurag Rai

Hon'ble Ashutosh Srivastava,J.

1. Heard Shri Anurag Rai, learned counsel for the petitioner.
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 seeking direction to the Civil Judge (Junior Division), Bansgaon, District Gorakhpur, to consider and decide the Original Suit No. 315 of 2005 (Smt. Basmati and others Vs. Ram Sewak and another) within the stipulated time frame fixed by this Court.
4. Learned Counsel for the petitioner submits that the Suit has been filed for the relief of permanent injunction restraining the defendants from interfering in the peaceful living of the plaintiff in the Suit property and also restraining them from damaging and illegally encroaching upon the same.
5. Learned Counsel for the petitioner submits that the Suit has been pending since the year 2005. He has invited the attention of this Court to the order-sheet of the proceedings, which have been brought on record as Annexure-2 to the petition, to submit that the temporary injunction was granted in favour of the plaintiff-petitioner and thereafter the Suit was directed to proceed for ex-parte evidence vide order dated 27.1.2009 and the said stage continued up to the year 2020.
6. Learned Counsel for the petitioner submits that the defendant had approached this Court for expeditious disposal of the interim injunction application, which was directed and in pursuance thereof the interim injunction application has been finally decided by order dated 18.8.2023. Thereafter, the case is being fixed for further orders.
7. Learned Counsel for the petitioner submits that despite the Suit having been pending since the year 2005, the defendants have not

filed their written statement and in absence of filing of the written statement, the issues have also not been framed and the Suit itself is proceeding in a very slow pace. He submits that the proceedings of the Suit, under such circumstances, may be expedited.

8. I have heard learned Counsel for the petitioner and have perused the record.

9. Having gone through the various order from the order-sheet filed on record, it is borne out that the interim injunction application, which was filed along with the plaint in the Suit, has come to be decided after expiry of almost 17 years that too after direction of this Court for expeditious disposal. Thereafter, the case is being fixed for further orders.

10. In the opinion of the Court, the learned Civil Judge (Junior Division), Bansgaon, district Gorakhpur, can be directed for inviting written statement from the defendants by fixing a time frame and in case the written statement is not filed by the defendants, he may proceed ex-parte. Once the written statement is filed, the learned Civil Judge (Junior Division), Bansgaon, district Gorakhpur, to frame the issues and invite evidence. The said exercise of inviting written statement from the defendants and framing of the issues may be done within 4 months from the date of service of a certified copy of the order of this Court. Even though the Suit has been filed in the year 2005 but considering the stage of the Suit, the Court is not inclined to expedite the entire proceedings of the Suit and a limited direction for inviting written statement and framing of the issues thereafter is being passed. It is expected that the court concerned with the proceedings shall abide by the directions aforesaid.

11. With the aforesaid observations, the petition is disposed of.

Order Date :- 5.12.2023

Irshad