

Court No. - 44

Case :- MATTERS UNDER ARTICLE 227 No. - 12520 of 2023

Petitioner :- Raj Kumar

Respondent :- Fool Kumari

Counsel for Petitioner :- Amish Kumar Srivastava,Ranjeet Verma

Hon'ble Ashutosh Srivastava,J.

Heard Shri Amish Kumar Srivastava, learned counsel for the petitioner.

Considering the nature of the order that is proposed to be passed notice upon the sole respondent is being dispensed with.

Present petition, under Article 227 of the Constitution of India, has been filed for a direction to the Civil Judge (Junior Division) City Jaunpur, to proceed with and decide the Case No. 571 of 2017 (Raj Kumar vs. Fool Kumari) within a time frame fixed by this Court.

Learned counsel for the petitioner submits that the aforesaid case was instituted for specific performance of an agreement to sell dated 04.07.2015. He further submits that the service upon the defendant/respondent has already been held to be sufficient vide order dated 22.02.2017 by publication, and thereafter the case is continuously being fixed for filing of the written statement and framing of the issues.

In order to buttress his submissions, learned counsel for the petitioner has invited the attention of this Court to the order sheet of proceedings of the case, which has been brought on record as Anneuxre 6 to the petition. A perusal of the same demonstrates that by order dated 22.12.2017 the service upon the defendant/respondent was held to be sufficient by publication and since 2017 till today the matter is being fixed for filing of the written statement and for framing the issues.

In the totality of circumstances, the Court is of the opinion that once service upon the defendant/respondent has been held to be sufficient and the defendant/respondent has not put in appearance the Court ought to proceed to frame issues on the plaint averments and proceed exparte. However, even after passage of almost 6 years the suit has not progressed any further and is pending at the

stage of filing of the written statement and framing of the issues.

Accordingly, the petition is ***disposed off*** by directing the Civil Judge (Junior Division) City Jaunpur, in seisin with the proceeding of the Case No. 571 of 2017 (Raj Kumar vs. Fool Kumari), to decide the same within a period of **6 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 :- 14.12.2023

Deepak/