

Court No. - 44

Case :- MATTERS UNDER ARTICLE 227 No. - 12408 of 2023

Petitioner :- Smt Bina Srivastava (Since Deceased)

Respondent :- Ashok Kumar Pandey

Counsel for Petitioner :- Tarun Agrawal,Prakhar Saran Srivastava

Hon'ble Ashutosh Srivastava,J.

1. Heard Shri Tarun Agarwal, 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 Additional Chief Judicial Magistrate, 6 (A.C.J.M-6), Allahabad, to decide the Original Suit No. 548 of 1999 (Ashok Kumar Pandey vs. Bina Srivastava), within the time stipulated by this Court.
4. Learned counsel for the petitioner submits that Original Suit No. 548 of 1999, (Ashok Kumar Pandey vs. Bina Srivastava) was filed by the plaintiff/respondent for permanent injunction. The defendant/ petitioner put in appearance in the said suit and filed her written statement. By order dated 09.12.1999 the Court below has granted temporary injunction directing the defendant/petitioner not to sell off the property in question and also not to evict the plaintiff from the property in question. Later on an application for amendment, seeking addition of a relief of specific performance of an oral agreement to sell the suit property, was claimed. The defendant/petitioner filed additional written statement with regard to amendment. The said application was allowed by the Court below on 24.09.2002. In the year 2013 substitution application, was filed by the plaintiff, for substituting the legal representatives of the defendant/petitioner. The said application was allowed and the petitioner Manu Srivastava was substituted in place of his late mother Bina Srivastava. Thereafter several dates have been fixed but the Original Suit is pending consideration since the year 1999, and the purpose of filing present petition shall stands served if the appropriate directions are issued to the Additional Chief Judicial Magistrate, 6 (A.C.J.M-6), Allahabad, to conclude and decide the Original Suit pending since 1999, within the time frame fixed by this Court.

5. Considering the fact that the aforesaid Original Suit, is pending consideration, before the Additional Chief Judicial Magistrate, 6 (A.C.J.M-6), Allahabad, since 2009, this Court is also of the opinion that no useful purpose would be served by keeping the writ petition pending and the same is accordingly ***disposed off*** by requiring the Additional Chief Judicial Magistrate, 6 (A.C.J.M-6), Allahabad, seized with the Original Suit No. 548 of 1999 (Ashok Kumar Pandey vs. Bina Srivastava), to consider and decide the case expeditiously, preferably within a period of **one year**, from the date of production of certified copy of the order of this Court, strictly in accordance with law, without granting unnecessary adjournments to either of the parties, following the directions passed by Hon'ble Supreme Court in ***Civil Appeal No. 4296 of 2023 (Yashpal Jain versus Sushila Devi & others)*** decided on 20.10.2023, contained in Paragraph 2 of the operative part of the order.

Order Date :- 12.12.2023

Deepak/