

Court No. - 44

Case :- MATTERS UNDER ARTICLE 227 No. - 12908 of 2023

Petitioner :- Ram Awadh

Respondent :- Sukhdev And 2 Others

Counsel for Petitioner :- Santosh Kr. Singh Paliwal

Hon'ble Ashutosh Srivastava,J.

Heard Shri Santosh Kr. Singh Paliwal, 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 filed for a direction to the Civil Judge (Jr. Div.), Haweli, Azamgarh to decide the Misc. Case No. 179 of 2022 (Ram Awadh and others versus Sukhdev and others) which is stated to be pending since 30.5.2022 within the time frame fixed by this Court.

Learned counsel for the petitioner submits that the petitioner is the defendant in a suit for partition which was numbered as Suit No. 695 of 2003. The said suit was decreed exparte by order dated 14.11.2008. An application under Order 9 Rule 13 CPC was filed by the petitioner for recalling of the exparte decree, which was registered as Misc. Case No. 358 of 2008. The said misc. case was also dismissed in default, consequent to the death of the counsel on 2.5.2018. Thereafter, an application seeking recall of the said order was filed on 30.5.2022, which has been registered as Misc. Case No. 179 of 2022.

Learned counsel for the petitioner submits that the said misc. case is pending consideration and objections have been invited and the plaintiffs/respondents have appeared and filed their objections. However, despite various dates being fixed, the misc. case is not being brought to its logical end.

I have heard learned counsel for the petitioner and perused the record.

From the perusal of the record and the order-sheet of the proceedings which have been brought on record, I find substance

in the submissions advanced by learned counsel for the petitioner.

In the opinion of the Court, ends of justice would stand subserved, if expeditious disposal of the Misc. Case No. 179 of 2022 is directed.

Accordingly, the petition is ***disposed of*** by directing the Civil Judge (Jr. Div.), Haweli, Azamgarh to decide the Misc. Case No. 179 of 2022 (Ram Awadh and others versus Sukhdev and others) arising out of Original Suit No. 695 of 2003 expeditiously preferably within a period of **three months** from the date of service of certified copy of the order of this Court, in accordance with law.

Order Date :- 16.12.2023

Ravi Prakash

(Ashutosh Srivastava, J.)