

Court No. - 44

Case :- MATTERS UNDER ARTICLE 227 No. - 12821 of 2023

Petitioner :- Musammat Shahina Parveen

Respondent :- Anwar Siddiqui And 2 Others

Counsel for Petitioner :- Firoz Haider

Hon'ble Ashutosh Srivastava,J.

Heard Shri P. N. Shukla under the authority of Shri Firoz Haider, learned counsel for the petitioner.

Considering the nature of the order that is proposed to be passed, the service of notice upon respondents is being dispensed with.

Learned counsel for the petitioner submits that the petitioner is the plaintiff in the Original Suit No. 1052 of 2009 (Musammat Shahina Parveen versus Anwar Siddiqui and others) which has been filed for eviction of the respondents herein. The suit came to be decided exparte vide order dated 23.2.2015 directing the respondents to remove their possession and to provide vacant possession to the petitioner within a period of 2 months. Learned counsel for the petitioner submits that the respondents were also directed to pay compensation to the tune of Rs.1,000/- from April, 2009 till the possession is handed over to the petitioner. Thereafter, an application under Order 9 Rule 13 was filed for recalling the exparte decree which was allowed by the Court vide order dated 12.2.2019 by imposing cost of Rs.10,000/- on the respondents.

Learned counsel for the petitioner submits that an application was filed by the defendants/respondents on 12.3.2019 for recalling of cost of Rs.10,000/- which was imposed on the defendants/respondents, application 21 ¶ is stated to be pending consideration and various dates are being fixed for disposal of the same, but no orders has yet been passed on the said application.

It is also contended by learned counsel for the petitioner that on account of pendency of the said application, the suit of the petitioner is not proceeding any further. He, thus submits, that a direction be issued for expeditious disposal of the Misc. Case No. 39 of 2015 in which an application registered as 21 ¶ moved by the respondents be decided.

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

From the order-sheet of the proceedings as has been brought on record, I find substance in the submissions made by learned counsel for the petitioner.

Considering the totality of the circumstances, this Court is of the opinion that ends of justice would stand subserved if directions are issued for expeditious consideration of the application 21 ऋ filed in Misc. Case No. 39 of 2015.

Accordingly, the petition is ***disposed of*** by directing the Addl. Civil Judge (Sr. Div.), Court No. 4, Varanasi seized with the Misc. Application No. 39 of 2015 filed in Original Suit No. 1052 of 2009 (Musammat Shahina Parveen versus Anwar Siddiqui and others) to proceed with and pass final orders on the application 21 ऋ filed in the aforesaid Misc. Case, expeditiously preferably within a period of ***two months*** from the date of service of certified copy of the order of this Court.

Order Date :- 15.12.2023
Ravi Prakash

(Ashutosh Srivastava, J.)