

Court No. - 44

Case :- MATTERS UNDER ARTICLE 227 No. - 12812 of 2023

Petitioner :- Mohd. Murtja (Deceased) And 10 Others

Respondent :- State of U.P. and Another

Counsel for Petitioner :- Dharmaveer Singh, Shivendra Nath Singh

Counsel for Respondent :- C.S.C.

Hon'ble Ashutosh Srivastava, J.

1. Heard Shri Dharmaveer Singh, learned counsel for the petitioners.

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 Addl. District Judge, Fast Track Court, Court No. 2, Mau to decide the Execution Case No. 05 of 2018 (Mohd. Murtza and others versus State of U.P. through Collector) within the time frame fixed by this Court.

4. Learned counsel for the petitioners submits that the Execution Case is pending considering since 2018. Learned counsel for the petitioners submits that reference of the petitioners was decided in the year 2018 against which First Appeal defective has been filed after four years, however, the Execution Court has given the reference of Review Application No. 408 of 2018 from which petitioner has no concern because it has been filed against the order dated 5.1.2017 passed in First Appeal No. 815 of 2019. Learned counsel for the petitioner further submits that against the order dated 31.3.2018 for which execution case has been filed, a First Appeal being First Appeal (Defective) No. 228 of 2022 has been filed and till date delay has not been condoned and no interim order has been passed. Learned counsel for the petitioner submits that purpose of filing present petition shall stands served if the appropriate directions are issued to Court below to conclude and decide the Execution Case, within the time frame fixed by this Court.

5. Having heard learned Counsel for the petitioner and having perused the record, this Court is of the opinion that the

proceedings of execution case is liable to be expedited in view of the judgment of the Apex Court in the case of ***Rahul S. Shah Vs. Jitendra Kumar Gandhi and others, (2021) 6 SCC 418***, wherein the Apex Court has clearly laid down that execution proceedings should be brought to its logical end within 6 months from the date filing which may be extended only by recording reasons in writing for such delay.

6. In such view of the matter, this petition is ***disposed of*** requiring Addl. District Judge, Fast Track Court, Court No. 2, Mau seized with Execution Case No. 05 of 2018 (Mohd. Murtza and others versus State of U.P. through Collector) to conclude and decide the case expeditiously preferably within a period of ***six months***, from the date of production of certified copy of order of this Court, strictly in accordance with law, without granting unnecessary adjournments to either of the parties, if there is no other legal impediment.

Order Date :- 15.12.2023
Ravi Prakash

(Ashutosh Srivastava, J.)