

**Court No. - 17**

**Case :-** MATTERS UNDER ARTICLE 227 No. - 3701 of 2023

**Petitioner :-** Neeraj Gaur

**Respondent :-** Civil Judge (Senior Division), Bahraich And 6 Others

**Counsel for Petitioner :-** Shrawan Kumar, Pankaj Kumar Sahu

**Hon'ble Alok Mathur, J.**

1. Heard Sri Shrawan Kumar, learned counsel for the petitioner.
2. Present writ petition under Article 227 has been filed seeking direction to the Civil Judge, Senior Division, Bahraich to decide execution case being SCC Case No. 08 of 2022 - Neeraj Gaur Vs. Prakash Chandra, within stipulated time. A report from Presiding Officer was sought by this Court, from the perusal of the same it transpires that an application for recall of order dated 23.08.2022, is pending consideration. It has been submitted that there is no compliance of Section 17 of the Act No. 13 of 1972 and consequently recall application would not be maintainable.
3. Be that as it may, this Court would not consider the aforesaid question as the application is pending consideration before the competent Court.
4. Learned counsel for the petitioner at this stage submits that even the application under Order 9 Rule 13 CPC is pending for more than a year and consequently direction may be given to the Court below to decide the said application and it is only when the said application is dismissed, the execution proceedings would commence.
5. In the light of submissions made by learned counsel for the petitioner and also in the interest of justice, present writ petition is **disposed of** with direction to the Civil Judge, Senior Division, Bahraich to consider and decide the application under Order 9 Rule 13 CPC pending in SCC Case No. 8 of 2022, expeditiously, if possible, within a period of six weeks from the date of production of certified copy of this order, in accordance with law, after affording opportunity of hearing to all the parties concerned, in case there is no other legal impediment.
6. Petitioner undertakes to cooperate in the proceedings before the Court below and will not seek any unnecessary adjournment.

**Order Date :-** 2.11.2023

A. Verma

(Alok Mathur, J.)