

Court No. - 6

Case :- MATTERS UNDER ARTICLE 227 No. - 4923 of 2023

Petitioner :- Azahrul Hasan And 3 Others

Respondent :- Civil Judge F.T.C (J.D) Sultanpur And 4 Others

Counsel for Petitioner :- Raj Mani Dubey, Jitendra Giri, Richa Mishra

Hon'ble Rajnish Kumar, J.

Heard Sri Raj Mani Dubey learned counsel for the petitioners.

This Court had passed the following order on 04.10.2023:-

"Sri Raj Mani Dubey, learned counsel for the petitioners submits that the petitioners have filed Regular suit No.1629 of 2004 for cancellation of sale deed and permanent injunction. The suit was filed in the year 2004. Since the defendant had not appeared therefore the case had proceeded ex parte by means of the order dated 20.10.2005. However, before the ex parte evidence could be filed, the application for recall was moved on 23.03.2006, which has not been disposed of till date. Therefore neither the written statement has been filed nor the case is proceeding and long dates are being fixed.

Perusal of the order sheet placed on record by the petitioner indicates that the case has proceeded ex parte on 20.10.2005 and an application for setting aside the ex parte order was moved on 23.03.2006 and thereafter the case is being fixed for disposal of the application for setting aside the ex parte order repeatedly and the application is not being disposed of, whereas parties remain present also. Order sheet also indicates that in a case which is going to complete about 20 years, long dates are being fixed. Lastly, the case was fixed on 12.07.2023, which has been fixed on 12.10.2023 i.e. after two months, whereas this Court on administrative side has already issued direction for zero pendency of cases which are more than 5 years old.

In view of above, let a report be called through the District Judge, Sultanpur from the concerned court, alongwith his comments, as to why the application for setting aside ex parte order is pending for the last 17 years and as to whether the concerned court has ever seen that such an application is pending for such a long period and inspite of a direction issued by this Court on administrative side for zero pendency of cases which are more than 5 years old, long dates are being fixed. The District Judge Sultanpur has also to clarify as to what efforts are being made by him for disposal of such old cases and if the officers are not taking appropriate steps what action is being taken by him. While sending the report, the concerned court as well as the District Judge will also clarify as to how much time the concerned court will take to decide the application for setting aside ex parte order, which is already pending for the last 17 years.

Let the aforesaid report be called by the Senior Registrar of this Court through the District Judge, Sultanpur before the next date.

List on 30.10.2023 in top ten cases."

In deference to the aforesaid order, report dated 21.10.2023 by the Civil Judge/Junior Division/FTC, Sultanpur along with comments of the District Judge, Sultanpur dated 23.10.2023 have been received.

Perusal of the report of the concerned court indicates that the application remain pending mainly on account of non assistance of the lawyer for one or the other reasons and COVID. However, the application for recall has been rejected on 21.10.2023 and the case was fixed for ex-parte evidence on 25.10.2023. Further, it has been stated by the Presiding Officer of the concerned court that the case would be disposed of expeditiously in accordance with law.

Considering the nature of order proposed to be passed, issuance of notice to the respondent nos.2 to 5 is dispensed with.

The respondent no.1 is court concerned.

The petition is **disposed of** in terms of the statement in the report dated 21.10.2023 by the Presiding Officer of the concerned court.

(Rajnish Kumar,J.)

Order Date :- 30.10.2023

Harshita