

Court No. - 18

Case :- MATTERS UNDER ARTICLE 227 No. - 5042 of 2023

Petitioner :- Nazibul Rahim Khan

Respondent :- Addl. Civil Judge (Senior Division)/A.C.J.M.
Court No. 2, Lakhimpur Kheri And 8 Others

Counsel for Petitioner :- Satish Kumar Sharma

Hon'ble Saurabh Lavania,J.

Heard learned counsel for the parties.

In view of order proposed to be passed, issuance of notice to the private-respondents is hereby dispensed with.

By means of this petition, the petitioner has sought the following main reliefs:-

"(i) To direct the Additional Civil Judge (Senior Division)/Additional Chief Judicial Magistrate, Court No. 2, Lakhimpur Kheri to decide the recall application Le Mise. Application No. 01/2021 pending in the Misc. Case No. 259/2001 Smt. Khatoon Jahan & others Vs Nakibul Rahim & others in which the recall application is pending for disposal since 16.03.2021 expeditiously preferable within a stipulated period as fixed by this Hon'ble Court in the interest of justice.

(ii) To set aside the impugned ex-parte order dated 01.04.2015 passed by opposite party No. 1, Additional Civil Judge (S.D.)/Additional Chief Judicial Magistrate, Court No. 2, Lakhimpur Kheri in Misc. Case No. 259/2001, Smt. Khatoon Jahan & others Vs. Nakibul Rahim & others, during the pendency of recall application which is pending before Additional Civil Judge (Senior Division)/Additional Chief Judicial Magistrate, Court No. 2, Lakhimpur Kheri."

Considering the submissions made by the learned counsel for the petitioner as also the averments made in the present petition which are to the effect that a regular suit No. 259/2001 (Smt. Khatoon Jahan & others Vs Nakibul Rahim & others) was decided on 01.04.2015 i.e. after about 14 years from the date of its institution and thereafter, the petitioner preferred an application under Order 9 Rule 13 CPC on 16.03.2021, which is pending consideration before the Civil Judge (Senior Division)/Additional Chief Judicial Magistrate, Court No. 2, Lakhimpur Kheri since 16.03.2021, this Court finds it

appropriate to direct the Court concerned to decide the application within the stipulated time.

Accordingly, the present petition is disposed of with a direction to the Court concerned to consider and decide the regular suit No. 259/2001 (Smt. Khatoon Jahan & others Vs Nakibul Rahim & others) most expeditiously after affording full opportunity of hearing to the parties to the litigation and without granting any adjournment to either party preferably within a period of six months from the next date fixed in the case, if possible and if there is no other legal impediment in this regard.

It is made clear that the Court has not examined the case of either party on merits and the Court concerned shall be free to decide the matter strictly in accordance with law.

With the aforesaid, the petition is ***disposed of***.

Order Date :- 10.10.2023

Arun/-