

Court No. - 18

Case :- MATTERS UNDER ARTICLE 227 No. - 5199 of 2023

Petitioner :- Ratnakar Gupta

Respondent :- Civil Judge (S.D) Lakhimpur Kheri And 11 Others

Counsel for Petitioner :- Vaibhav Awasthi, Sunita Dwivedi

Counsel for Respondent :- Ankit Srivastava, Anoop Kumar Misra, Kumar Jaikrit

Hon'ble Saurabh Lavania, J.

Heard.

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

The present petition has been filed with the following prayer:-

"i) Issue order or direction commanding to the Opposite Party No.1 to decide the Execution Case No. 01 of 2021 filed for execution of judgment and compromise decree dated 18.10.2018 on behalf of compromise dated 08.10.2018 numbered as 61..1 in the case in Case no. 118/2016 Ratnakar Gupta VS H.D.F.C. Bank and Others pending since 2021 within the stipulated time, if possible by day to day hearing."

It is submitted that for the reasons beyond control, the case, in issue, has not been decided till date, which is pending since 2021 and on account of pendency of the same, the petitioner is suffering great hardship and mental agony. In these circumstances, indulgence of this Court is required in the matter. The prayer is to expedite the proceedings of pending case.

In regard to relief sought, learned counsel for petitioner has placed reliance on a judgment dated 18.11.2022 passed by the Hon'ble Apex Court in ***Special Leave to Appeal (C) No(s). 19654/2022 (Bhoj Raj Garg vs. Goyal Education and Welfare Society and others)***, which on reproduction reads as under:-

"The complaint of the petitioner is that the Execution Court is not abiding by the directions issued by this Court in the decision in **Rahul S. Shah Vs. Jinendra Kumar Gandhi & Ors.**, reported in **(2021) 6 SCC 418**. In the said decision, this Court held as follows:-

"42. All Courts dealing with suits and execution proceedings shall mandatorily follow the below mentioned directions :-

2. The Executing Court must dispose of the Execution Proceedings within six months from the date of filing, which may be extended only by recording reasons in writing for such delay."

This means that it becomes the duty of the Execution Court to dispose of the execution proceedings at the earliest and since this Court has directed that the Execution Court must dispose of the execution proceedings within six months from the date of filing, which can be extended only by recording reasons in writing for such delay, this direction is meant to be observed. This would mean that every effort should be made to dispose of the execution petition within the said time limit and the Execution Court should have reasons for not being able to dispose of the execution petition. The Execution Court is duty bound to record reasons in writing when it is unable to dispose of the matter.

We need only reiterate what this court has already ordered.

Subject to these observations, the Special Leave Petition is disposed of.

Pending interlocutory application(s), if any, is/are disposed of."

Considering the facts and circumstances of the case, this Court is of the view that no fruitful purpose will be served in keeping this petition pending. Accordingly, this petition is disposed of with a direction to the Court concerned to consider and decide the Execution Case 01 of 2021 (Ratnakar Gupta vs. H.D.F.C. Bank and Others) expeditiously, say within a period of six months from the next date fixed in the case after affording full opportunity of hearing to the parties to the litigation and without granting any adjournment to either party, if possible and if there is no other legal impediment in this regard. While deciding the matter, the Authority concerned is directed to take note of the judgment of the Hon'ble Apex Court passed in the case of **Bhoj Raj Garg** (supra).

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

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

Order Date :- 8.11.2023/Raj