

Court No. - 6

Case :- MATTERS UNDER ARTICLE 227 No. - 5130 of 2023

Petitioner :- Anuj Pandey

Respondent :- The Addl. Principal Judge (Vii), Family Court, Lko. And Another

Counsel for Petitioner :- Prabh Jot Kaur

Hon'ble Rajnish Kumar,J.

Ms. Prabh Jot Kaur, learned counsel for the petitioner submits that this petition has been filed for direction for disposal of Regular Suit No.3120 of 2022 under Section 13 of Hindu Marriage Act, 1955(Anuj Pandey versus Smt. Saumya Dwivedi).

Learned counsel for the petitioner submits that the marriage of the petitioner was solemnized with the respondent no.2 on 07.12.2015, which is disclosed in the plaint but it has inadvertently been mentioned as 07.12.2020 in paragraph 3 of the petition. On account of some differences, respondent no.2 had left the matrimonial house therefore the petitioner had filed Regular Suit No.1374/2020 under Section 9 of the Hindu Marriage Act before the Court of Principal Judge, Family Court, Lucknow, in which the respondent no.2 had appeared and filed written statement clarifying her intention that she does not want to live with the petitioner. Therefore the petitioner withdrew the suit filed under Section 9 of the Hindu Marriage Act and filed Regular Suit No.3120 of 2022 under Section 13 of the Hindu Marriage Act, 1955 before the Principal Judge, Family Court, Lucknow which is now pending before the Additional Principal Judge (VII) Family Court, Lucknow after transfer of the said case on 20.06.2023. The respondent no.2 has put in appearance on 12.12.2022 but till date the written statement has not been filed by the respondent no.2 and the court is repeatedly granting time for filing the written statement against the Order VIII Rule 1 and not passing order under Order VIII Rule 1 CPC. He further submits that three times the conciliation proceedings have been held between the petitioner and the respondent no.2 but could not be successful. Therefore the suit filed by the petitioner under Section 13 of the Hindu Marriage Act should be disposed of at an early date to prevent the petitioner from further harassment.

Considering the order proposed to be passed, requirement of issuance of notice to the opposite party no.2 is dispensed with. Opposite party no.1 is the court concerned.

In view of above, without entering into the merits of the case,

the petition is **disposed of** with liberty to the petitioner to move appropriate application before the concerned court for passing order under the provisions of CPC on account of non filing of the written statement in time. In case any such application is moved before the next date fixed, which is said to be 31.10.2023, the same shall be considered and decided by the concerned family court in accordance with law on the date fixed or expeditiously within a period of two weeks thereafter after affording opportunity to the parties and without granting unnecessary adjournment to either of the parties and proceed to pass order accordingly in accordance with law.

Order Date :- 11.10.2023
Akanksha