

**Court No. - 6**

**Case :-** MATTERS UNDER ARTICLE 227 No. - 5304 of 2023

**Petitioner :-** Dr. Pawan Kumar Maurya

**Respondent :-** Smt. Shweta Shakya

**Counsel for Petitioner :-** Jaskaran Lal Maurya

**Hon'ble Rajnish Kumar,J.**

Heard Sri Jaskaran Lal Maurya learned counsel for the petitioner.

This Court had passed the following order on 17.10.2023:-

*"Sri Jaskaran Lal Maurya, learned counsel for the petitioner submits that the petitioner has filed a Divorce Petition under Section 13 of the Hindu Marriages Act bearing Case No.762 of 2022(Dr. Pawan Kumar Maurya versus Smt. Shweta Shakya). Since the defendant in the suit i.e. the opposite party no.2 in the present case had not put in appearance, case proceeded exparte on 15.04.2023 and since then 10 dates have been fixed but the concerned court has failed to decide the exparte case in which only the exparte arguments are to be heard whereas the petitioner and his counsel remained present on the date fixed to argue the matter. and the case is taken up.*

*Perusal of the order sheet indicates that the case has been adjourned atleast on 5 dates when the petitioner alongwith his counsel was present. It is also strange that after proceeding exparte on 15.04.2023, on the next date i.e. 06.05.2023, when the petitioner alongwith counsel was present, the case was adjourned to wait for the respondent. This Court fails to comprehend as to when the case had proceeded exparte, why the court had adjourned the case to wait for the respondent. Therefore it is to be clarified by the Incharge Officer of the concerned court as to when the case is being taken on each and every date and is to be decided after hearing the ex- parte arguments only, why the case has not been disposed of for the last 10 dates and why the court had adjourned the case on 06.05.2023 for waiting for the respondent without any request. It is also to be noted that if the petitioner alongwith his counsel remained present on the dates on which the lawyers were on strike and ready to argue, the court cannot adjourn the case on the ground of strike of lawyers because the court cannot be said to be on strike whereas the case has been adjourned on this ground, therefore it is also to be clarified by the concerned court.*

*It has been informed by learned counsel for the petitioner that the case is pending in the court of Additional Principal Judge-II, Family Court, Sitapur.*

*Let the report be called from the concerned court through the Principal Judge, Family court Sitapur with his comments before the next date of listing.*

*Let the aforesaid report be called by the Senior Registrar of this Court through the Principal Judge, Family court Sitapur.*

*List on 30.10.2023 in top ten cases."*

In deference to the aforesaid order, report dated 26.10.2023 by the Additional Principal Judge, Family Court, Sitapur along with the comments of the District Judge of the concerned Court have been received, which indicates that the case is proceeding exparte. However, it could not be disposed of due to certain reasons including non assistance of the petitioner on several dates including 14.08.2023, 14.09.2023 and 25.09.2023, on which dates the petitioner and his counsel has not appeared, even then the dates were fixed by the Court and leave of the Presiding Officer on account of some personal reasons. However, it has been stated that the case has been fixed for 07.11.2023 and subject to cooperation by the petitioner, the case shall be disposed of in accordance with law without any delay.

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

The petition is **disposed of** in terms of the report dated 26.10.2023 of the concerned court.

**(Rajnish Kumar,J.)**

**Order Date :- 30.10.2023**

Harshita