

Court No. - 6

Case :- MATTERS UNDER ARTICLE 227 No. - 5551 of 2023

Petitioner :- Vijay Kumar Mishra And 2 Others

Respondent :- State Of U.P. Thru. Prin. Secy. Home Civil Sectt. Lko And Another

Counsel for Petitioner :- Vivek Kumar Rai, Ajai Kumar

Counsel for Respondent :- C.S.C.

Hon'ble Rajnish Kumar,J.

Sri Ajay Kumar learned counsel for the petitioner submits that the petitioner has filed Misc. Case no.455 of 2021 under Section 7 of the Guardians and Wards Act 1890 for guardianship of the petitioner no.3. The respondent no.2 had not appeared, therefore, by means of the exparte order dated 30.05.2022, the case was decreed in favour of the petitioner no.2. However, on an application moved under Order 9 Rule 13 CPC by the respondent no.2 for setting aside the judgment and decree dated 20.07.2022 registered as Case no.108 of 2022, which was allowed, the Misc. Case no.455 of 2021 was restored to its original number by means of the order dated 10.03.2023 and the respondent no.2 was directed to file written statement but till date neither the written statement has been filed nor the case is proceeding for one or the other reason, whereas there is urgency in the matter because the petitioner no.3 is going to attain the majority, and if the suit is not decided, the suit may render infructuous. Therefore, he makes an innocuous prayer for a direction for disposal of suit no.455 of 2021 within some short stipulated period.

Perusal of the order sheet indicates that as a last opportunity, time for filing written statement was granted by means of the order dated 31.10.2023 and learned counsel for the petitioner submits that despite the said order, no written statement has been filed.

In view of the above, without entering into merit of the case, the petition is **disposed of** with liberty to the petitioner to move an application for expeditious disposal of the Matrimonial Misc. Case no.455 of 2021 (Vijay Kumar Mishra and others vs Rajesh Dutta Bajpai) before the court concerned i.e. Family Court. In case, any such application is moved within two weeks from today, the same shall be considered and appropriate order shall be passed thereafter, within two weeks thereafter and the court shall proceed accordingly.

(Rajnish Kumar,J.)

Order Date :- 2.12.2023/Harshita