

Court No. - 18

Case :- MATTERS UNDER ARTICLE 227 No. - 5769 of 2023

Petitioner :- Bhartiya Vikas Samiti Tikait Rai Talab,Lko. Thru.
Member/Manager Shiv Kumar Agrawal

Respondent :- Civil Judge (Senior Division), Malihabad Lucknow And 2
Others

Counsel for Petitioner :- Sadhu Saran Shukla,Shashank Shukla

Counsel for Respondent :- Namit Sharma

Hon'ble Saurabh Lavania,J.

Heard learned counsel for the petitioner and Sri Namit Sharma, learned counsel for the Jal Kal Department, Nagar Nigam, Lucknow.

In view of order proposed to be passed, issuance of notice to the private-respondent(s) is hereby dispensed with.

Present petition has been filed for the following main relief:-

"(i) To direct the learned Civil Judge (Senior Division) Malihabad, Lucknow to decide the restoration application in Regular Suit No. 47/2016 expeditiously pending in the court of Civil Judge (Senior Division) Malihabad, Lucknow contained in annexure no. 1 within 15 days."

Considering the facts, as stated, as also that the suit was dismissed for want of prosecution on 21.09.2021 and immediately thereafter an application for restoration of the suit dated 21.10.2021, under Order 9 Rule 4 of CPC was preferred by the petitioner, however, the same is pending consideration till date, this Court is of the view that no fruitful purpose would be served in keeping the present petition pending.

Accordingly, present petition is disposed of with direction to respondent No.1-Civil Judge (Junior Division), Malihabad, Lucknow to consider and decide Regular Suit No. 47 of 2016, most expeditiously, after affording full opportunity of hearing to the parties to the litigation and without granting any unnecessary adjournment to either party preferably within a period of six months from the next date fixed in the case, if there is no other legal impediment in this regard.

The benefit of this order would be available to the petitioner if he appears on the next date fixed before the Court concerned.

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

Order Date :- 8.11.2023

Vinay/-