

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WRIT PETITION (227) NO. 318 OF 2016

Raja Diwan, S/o G.D. Diwan, aged about 45 years, R/o Sundar Nagar,
Raipur, P.S. Sundar Nagar, Tah. & Dist. Raipur (C.G.)

... Petitioner

Versus

1. Nitin Sinha, aged about 48, S/o Late Rajiv Sinha, R/o 31, State Bank
Colony, Sundar Nagar, P.S. Sundar Nagar, Tah. & Dist. Raipur (C.G.)

2. G.P. Nayar, aged about 78 years, S/o Late Ganpati Ayyar, R/o 43,
Kesar Nagar, Rajnandgaon, Tah. & Dist. Rajnandgaon (C.G.)

... Respondents

For Petitioner : Mr. Ravindra Agrawal, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

12/05/2016

1. Since the limited prayer sought for as relief in the instant case is not related to the merits of the case, this Court feels it proper to dispose of the writ petition in limine without issuing notice to the other side.

2. The present is a writ petition seeking for a limited relief of early disposal of Civil Suit No. 11A/2009 pending before 8th Additional District Judge, Raipur.

3. Grievance of the Petitioner in the present writ petition is that the said suit for specific performance of contract was filed by Respondent No.1/Plaintiff against the present Petitioner/Defendant No.2 and Respondent No.2/Defendant No.1 on 18.10.2004. Counsel for the Petitioner submits that in the said suit the issues were also framed on 13.2.2007 and thereafter the matter is progressing with the Plaintiff's evidence. It is stated by the Counsel for the Petitioner that the Plaintiff has been examined on 23.1.2010 and since then the matter is fixed for the remaining evidence of the Plaintiff but for some reasons or the other and

on lame excuses the matter is getting adjourned. In paragraph 8.4 of the writ petition, he has stated that there are 17 date of hearings, i.e., from 3.9.2007 to 19.11.2004 on which dates there has been no witnesses present on behalf of the Plaintiff and for some reasons or the other the matter is getting adjourned detrimental to the interest of the Petitioner who is a Defendant in the case and the purchaser of the suit property. Counsel for the Petitioner further submits that even subsequently the matter has been fixed on various dates but for some reasons or the other the Court either adjourned the matter or entertain frivolous applications by the Plaintiff or adjourned the case for the reasons assigned by the Counsel for the Plaintiff. He has also submitted that on various occasions costs have also been imposed on the Plaintiff yet the matter has not been finalised and therefore he has sought for a direction to the Court below for early disposal of the case.

4. Present is a case where it prima facie appears that the Court below is granting unnecessary adjournments to the Plaintiff and that it is a case where the Plaintiff has examined himself about six years back, i.e., on 23.1.2010 and thereafter the case has not been proceeded further in spite of there being a large number of adjournments only for the recording of the Plaintiff's evidence. This Court does not appreciate the manner in which the Court below is proceeding with the present case and it is expected that the Court below would take into consideration the fact that the suit is more than 12 years old and that the pleadings are also completed except for the recording of the evidence. This Court does not see any reason why the Court below cannot proceed further if the Plaintiff fails to adduce his evidence or the Plaintiff tries to prolong the matter by moving frivolous application intended to avoid the completion of evidence on behalf of the Plaintiff.

5. It is directed that the Court below shall take into consideration the seniority of the case and proceed with the case on priority basis and if required the Court below shall also proceed on day-to-day basis. It is expected that the Court below shall decide the matter as expeditiously as possible. This Court does not intend to fix a time limit within which the case is to be decided but that does not mean that the Court below should grant unnecessary prolonged adjournments to the Plaintiff delaying the final adjudication.

6. In this case the issues were framed in the year 2007 and even after 9 years thereafter if the Plaintiff's evidence could not be completed is something which the Court below should think upon seriously. From the record it also does not appear that the proceedings were at any time stalled by any higher Courts.

This is one of the case which fits perfectly on the old phrase of "Justice delayed is Justice denied".

When the whole nation is striving for disposal of old cases, it is expected that the Court below will rise to the occasion and shall make all endeavours and shall use all the powers within its jurisdiction and limits for a speedy and effective disposal of this case.

7. The writ petition is allowed and disposed with the aforesaid direction.

Sd/-
(P. Sam Koshy)
Judge