

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(227) No.374 of 2021

- Udho Prasad Sharma S/o Late Shri Shamaru Prasad Sharma Aged About 68 Years R/o House No. Md- 35, Housing Board Kota Raipur, Police Station Saraswati Nagar, Raipur, District Raipur Chhattisgarh

---- Petitioner

Versus

1. M.N. Prasad Rao S/o Late Shri S. Janardan Rao Aged About 67 Years General Manager, Chhattisgarh State Civil Supplies Corporation, Avanti Vihar Telibandha, Office Raipur, Police Station Telibandha, Raipur, R/o State Bank Colony, Fafadih Raipur, Police Station Devendra Nagar Raipur, District Raipur Chhattisgarh
2. Shyam Lal Adil S/o Late Shri Salikram Adil Post Office Jaroud Via Bhatapara, Police Station Bhatapara Gramin, District Baloudabazar Bhatapara Chhattisgarh
3. K.L. Sinha S/o Shri M.R. Sinha Aged About 63 Years Manager (Legal), Chhattisgarh State Civil Supplies Corporation, Avanti Vihar Telibandha, Office Raipur, Police Station Telibandha Raipur, R/o Laxminagar Pachpedi Naka, Police Station Tikrapara, Raipur, District Raipur Chhattisgarh.

---- Respondents

For Petitioner

– Mr. Sunil Pillai, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

11-08-2021

Heard.

1. It is submitted that the petitioner is a complainant who has filed a complaint case against the private respondents. The date of filing is 25.05.2013. The trial Court has taken cognizance in the offence on 17.09.2013. The private respondents filed an application for discharge which was dismissed by the trial Court on 12.08.2014. This order was challenged in Revision before the Court of Third A.S.J. Bilaspur in Criminal Revision No.161/2014 which was disposed off vide order dated 19.02.2015. Subsequent to that, the private respondents have filed Cr.M.P. No.331/2015, in which the order was passed to stay the proceedings in the complaint case, which had been continuing.
2. It is submitted that the learned trial Court has made observation in the order sheet dated 22.12.2020 that in view of the judgment of Supreme Court in Asian Resurfacing of Road Agency Vs. Central Bureau of Investigation decided on 28.03.2018, in Criminal Appeal No.1375-1376 of 2013, the stay order is deemed to be discontinued after six months. It is submitted that the stay order was extended for the last time by this Court by the last order passed on 06.05.2019, therefore, the stay order shall be deemed to have discontinued for the reason that more than six months have passed in view of the judgment in Asian Resurfacing of Road Agency (Supra).The trial Court is listing the case to await for further stay order. Hence, for this reason, it is prayed that this petition may be disposed off with direction to the trial Court to take up the proceeding expeditiously and dispose off the same within a time frame.
3. Considered on the submissions, in view of the judgment in Asian Resurfacing of Road Agency (Supra), there is a clear direction that in case the stay order passed by the High Court is not extended after six months, then it shall be deemed that there is no stay order operative and the Court concerned has the duty to proceed with the case or the

proceeding. In paragraph 35 of Judgment of Asia Resurfacing of Road Agency (Supra), it is held that:-

“35. In view of above, situation of proceedings remaining pending for long on account of stay needs to be remedied. Remedy is required not only for corruption cases but for all civil and criminal cases where on account of stay, civil and criminal proceedings are held up. At times, proceedings are adjourned sine die on account of stay. Even after stay is vacated, intimation is not received and proceedings are not taken up. In an attempt to remedy this, situation, we consider it appropriate to direct that in all pending cases where stay against proceedings of a civil or criminal trial is operating, the same will come to an end on expiry of six months from today unless in an exceptional case by a speaking order such stay is extended. In cases where stay is granted in future, the same will end on expiry of six months from the date of such order unless similar extension is granted by a speaking order. The speaking order must show that the case was of such exceptional nature that continuing.”

4. Hence, for these reason, this petition is disposed off at the motion stage.

The learned trial Court is directed to take up the proceeding in complaint case No.479 of 2013 between the parties Udho Prasad Sharma Vs. M.N. Prasad Rao and Ors. and expeditiously conclude the same preferably within a period of one year from the date this order is passed.

5. Accordingly, this petition stands disposed off.

Monika

Sd/-
(Rajendra Chandra Singh Samant)
Judge