

Court No. - 15

Case :- U/S 482/378/407 No. - 144 of 2021

Applicant :- Radha

Opposite Party :- State Of U.P. & Anr.

Counsel for Applicant :- Neera Yadav, Shailendra Kumar Tripathi

Counsel for Opposite Party :- G.A.

Hon'ble Mrs. Rekha Dikshit, J.

Heard learned counsel for the petitioner, learned AGA and perused the record.

This petition has been filed with the prayer to issue direction to Judicial Magistrate-I, District- Faizabad to decide the Case No.104/2018 (Smt. Radha versus Hanuman & others) under Section 12 of Domestic Violence Act pending before him since 2018.

Learned counsel for the petitioner has submitted that Case No.104/2018 (Smt. Radha versus Hanuman & others) under Section 12 of Domestic Violence Act is pending before him since 2018. Despite several request to the court concerned, no further proceedings have taken place till date. It has also been submitted that the aforesaid case is summary in nature, as such, it has to be decided within a stipulated period which has not been done by the court concerned. It has also been submitted that ends of justice would be met if necessary direction is issued to learned Judicial Magistrate-I, District- Faizabad to consider and decide the aforesaid case, in accordance with law, within stipulated time, to which, learned AGA has no objection.

The Hon'ble Apex Court in the judgment dated 14.07.2016 rendered in Special Leave Petition (CC) No.14061 of 2016; **Gayathri vs. M. Girish** has relied upon the following:-

"In this context, we may profitably reproduce a passage from **Shiv Cotex v. Tirgun Auto Plast (P) Ltd.**; (2011) 9 SCC 678 wherein it has been stated that it is sad, but true, that the litigants seek ? and the courts grant ? adjournments at the drop of a hat. In the cases where the Judges are little proactive and refuse to accede to the requests of unnecessary adjournments, the litigants deploy all sorts of methods in protracting the litigation. The court has further laid down that it is not surprising that civil disputes drag on and on. The misplaced sympathy and indulgence by the appellate and revisional courts compound the malady further.

In **Noor Mohammed v. Jethanand**; (2013) 5 SCC 202 commenting on the delay caused due to dilatory tactics adopted by the parties, the Court was compelled to say:-

"In a democratic set-up, intrinsic and embedded faith in the adjudicatory system is of seminal and pivotal concern. Delay gradually declines the citizenry faith in the system. It is the faith and faith alone that keeps the system alive. It provides oxygen constantly. Fragmentation of faith has the effect potentiality to bring in a state of cataclysm where justice may become a casualty. A litigant expects a reasoned verdict from a temperate Judge but does not intend to and, rightly so, to guillotine much of time at

the altar of reasons. Timely delivery of justice keeps the faith ingrained and establishes the sustained stability. Access to speedy justice is regarded as a human right which is deeply rooted in the foundational concept of democracy and such a right is not only the creation of law but also a natural right. This right can be fully ripened by the requisite commitment of all concerned with the system. It cannot be regarded as a facet of Utopianism because such a thought is likely to make the right a mirage losing the centrality of purpose. Therefore, whoever has a role to play in the justice-dispensation system cannot be allowed to remotely conceive of a casual approach."

And, again:-

"Thus, from the aforesaid, it is clear as day that everyone involved in the system of dispensation of justice has to inspire the confidence of the common man in the effectiveness of the judicial system. Sustenance of faith has to be treated as spinal sans sympathy or indulgence. If someone considers the task to be Herculean, the same has to be performed with solemnity, for faith is the "elan vital" of our system."

In the case at hand, it can indubitably be stated that the defendant-petitioner has acted in a manner to cause colossal insult to justice and to the concept of speedy disposal of civil litigation. We are constrained to say the virus of seeking adjournment has to be controlled. The saying of Gita "Awake! Arise! Oh Partha" is apt here to be stated for guidance of trial courts."

The speedy justice is the fundamental right of every litigant but at the same time the long pendency of old cases also cannot be ignored and no one can be permitted to linger on the proceedings unnecessarily. It has also been experienced that the lawyers also abstain from work on various counts. A counsel appearing for a litigant has to have institutional responsibility and it is expected that unnecessary adjournments should not be sought.

However, considering all facts and circumstances of the case, without entering into merits of the case, Judicial Magistrate-I, District- Faizabad is hereby directed to consider and decide the aforesaid case in accordance with law after affording opportunity of hearing to all parties concerned expeditiously, if possible within three months from the date of production of a certified copy of this order.

With the aforesaid observations and directions, the petition is disposed of finally.

Order Date :- 18.1.2021

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