

(2023) 06 DEL CK 0044

In the Delhi High Court

Case No : Civil Miscellaneous (Main) No. 963 Of 2023

Noor Ahmad Khan & Anr

APPELLANT

Vs

Gaon Sabha Mahipalpur & Ors

RESPONDENT

Date of Decision : 01-06-2023

Acts Referred:

Constitution of India, 1950 — Section 227

Code of Civil Procedure, 1908 — Order 39 Rule 1, Order 39 Rule 2

Citation : (2023) 06 DEL CK 0044

Hon'ble Judges : Tushar Rao Gedela, J

Bench : Single Bench

Advocate : J.P. Sengh, Rahul Kukreja, Atharva Kotwal, R.L. Sinha, Shobhana Takiar, Kuljeet Singh

Final Decision : Disposed Of

Judgement

Tushar Rao Gedela, J

[The proceeding has been conducted through Hybrid mode] CM APPL. 30943/2023

1. Exemption allowed subject to all just exceptions.

2. The application stands disposed of.

CM(M) 963/2023 & CM APP No. 30942/2023 (Stay)

3. The petitioner has approached this Court under Article 227 of the Constitution of India seeking directions to the Sub Divisional Magistrate (SDM) at Jam Nagar House to take up the application under Order XXXIX Rules 1 and 2, CPC, 1908 filed alongwith application under Section 11 read with Item 4 of Schedule I and other enabling provisions of Delhi Reforms Act, 1954, which is pending adjudication since August, 2021.

4. Mr. J.P. Sengh, learned senior counsel appearing for the petitioner submits that the petitioner is suffering on account of no decisions coming through in the

aforesaid application or even in the application under Order XXXIX Rules 1 and 2 of CPC, 1908 for the reason that the aforesaid application is being transferred from one SDM to another without the same being disposed of in the manner known to law.

5. Issue notice. Notice accepted by Ms. Shobhana Takiar, learned Standing Counsel appearing for respondent no.3/DDA, who is the contesting respondent.

6. This Court has perused the applications placed on record and heard the submissions addressed by Mr. Sengh, learned senior counsel appearing for the petitioner.

7. The disposal of any application or petition or a pleading is a right of the party, which is before a statutory authority or even before the Court. This Court cannot countenance a situation or a position where the litigants approach the competent authority and their matters are not taken in right earnest.

8. The respondent-SDM is under an obligation to take up the pending applications and dispose of the same, and that too, expeditiously.

9. In that view of the matter, this Court directs Sub Divisional Magistrate, Jam Nagar House to take up the case No. 990 titled Noor Ahmad Khan & Anr vs. Gaon Sabha Mahipalpur & Anr, within four weeks from today with advance notices to the parties concerned.

10. The SDM is further directed to take up the application under Order XXXIX Rules 1 and 2 CPC, 1908 at the first instance and dispose of the same in accordance with law.

11. Since the matter has not been heard and disposed of in accordance with law by the SDM concerned, for the time being, till the time SDM, Jam Nagar House takes up the application and disposes of the same in accordance with law, the status quo as obtaining today, shall continue.

12. The aforesaid order is only upto the point when the SDM, Jam Nagar House decides and disposes of the application.

13. The petition and pending application is disposed of in above terms with no order as to costs.