
(2019) 08 JH CK 0068

In the Jharkhand High Court

Case No : Writ Petition (C) No. 3371 Of 2019

Umesh Prasad @ Umesh Prasad Sahu

APPELLANT

Vs

Mahendra Prasad Sahu

RESPONDENT

Date of Decision : 29-08-2019

Acts Referred:

Constitution Of India, 1950 — Article 227

Citation : (2019) 08 JH CK 0068

Hon'ble Judges : Sujit Narayan Prasad, J

Bench : Single Bench

Advocate : A.K. Sahani

Final Decision : Disposed Off

Judgement

This writ petition is under Article 227 of the Constitution of India whereby and whereunder order dated 23.05.2019 passed in Misc. Case No. 74 of 1996 arising out of Partition Suit No. 24 of 1990 is under challenge by which the petition filed by the petitioner/Opp. Party dated 17.05.2019 has been rejected with a direction to both the parties to conclude the arguments of both cases i.e. Misc. Case No. 74 of 1996 and Partition Suit No. 24 of 1990 at an earliest day to day basis so that both the cases may be disposed of expeditiously.

According to Mr. A.K. Sahani, learned counsel for the petitioner that petition has been filed on 17.05.2019 for disposal of the Partition Suit No. 24 of 1990 first and then decide the Misc. Case No. 74 of 1996 while the same has been objected to by the plaintiff and prayed for first disposal of Misc. Case No. 74 of 1996.

He further fairly submits that the petition dated 17.05.2019 has been rejected but the subsequent direction passed by the trial Court is virtually in his favour since both the Misc. case and Partition Suit are directed to be heard together.

He, therefore, submits that he is not pressing the instant writ petition.

He however referred to the order dated 09.08.2012, passed in W.P. (C) No. 831

of 2012 with W.P. (C) No. 4074 of 2011, appended as Annexure 2 to the writ petition, wherein the co-ordinate Bench of this Court directed the trial Court by taking into consideration the year of filing of the suit, which is of the year 1990 and considering the submissions of both the parties has directed to decide the partition suit expeditiously preferably within a period of six months from the date of receipt of copy of the order but till date both the Misc. Case No. 74 of 1996 along with Partition Suit No. 24 of 1990 are still pending, therefore, appropriate direction may be passed upon the concerned trial Court for early disposal of the suit.

Having heard learned counsel for the petitioner and on perusing the record it appears that the trial Court, even after taking into consideration the aforesaid direction passed in W.P. (C) No. 831 of 2012 with W.P. (C) No. 4074 of 2011 under Article 227 of the Constitution of India, failed to comply with the order passed way back on 09.08.2012 and suit is still pending.

In view thereof, the trial Court is directed to conclude the trial within a period three months from the date of receipt of copy of this order.

With the aforesaid observation and direction, the writ petition stands disposed of.

Let this order be communicated to the trial Court.