

**IN THE COURT OF ADDL. DISTRICT & SESSIONS JUDGE IIIrd
CIVIL COURT, SIWAN**

In re :- **Title Appeal no. 91/2014**

Md. Hussain & Others Versus Prabhawati Devi & Others

APPEARANCE:-

Ld. Counsel Shri Bivesh Kumar for appellant.

Ld. Counsel Shri Nishesh Chandra for respondent.

ORDER

16-10-2019 By this order court disposed off miscellaneous application dated 29-07-2019 filed on behalf of the respondent in which the respondent seeks case be fixed for final argument.

In the application it is stated that the petitioner has filed a civil Miscellaneous Jurisdiction No. 900 of 2017 against the order of this Court dated 10-03-2017 in which the Hon'ble High Court stayed the further proceeding in this appeal vide order dated 30-07-2018. That one year has elapsed and as per the direction of the Hon'ble Supreme Court in all pending case where stay against proceeding of a civil or criminal trial is operating the same will come to an end on expiry of six months unless extended by the Court. It is stated that the appellant has failed to file any certified copy regarding the extension of stay despite several direction from this court. Hence, case is fixed for final argument.

To that application the appellant has filed the reply dated 29-07-2019. In the reply it is stated that the application of respondent is not

maintainable. It is further stated that stay has been granted by the Hon'ble High Court. Thus, the present application is liable to be rejected.

Argument heard from both the parties and record perused. It reveals from record that the factum of stay of proceeding has been conveyed to this court by the appellant counsel on 18-04-2017 and the direction was given to the appellant counsel for production of copy of the order of Hon'ble High Court. But despite several direction the appellant counsel failed to produce the same. On 01-02-2018 the Ld. Appellant counsel filed an application seeking further time for production of the stay order. But a specific direction has been given by the court that same be produced on the next date of hearing i.e. 27-02-2018. But despite several direction the appellant counsel failed to produced the same. This court received the order of Hon'ble High Court on 02-08-2018 in which the proceeding has been stayed. It is specifically mentioned that "Issue notice to the respondent No. 1 to 8 through speed post with A.D. for which requisition must be filed within two weeks. **In the meantime**, the further proceeding in Title Appeal No. 91 of 2014 pending in the court of learned 3rd Addl. District Judge, Siwan shall remain stayed." Since the passing of this order six months has already been passed and appellant despite several direction of this court failed to produce any copy of further stay in the appeal from the High Court. The respondent has filed the present application in view of the direction given in Criminal Appeal No. 1375-1376 of 2013 styled as "Asian Resurfacing of Road Agency vs Central Bureau of Investigation." In which it is directed 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." The appellant has failed to filed any copy of the order of the Hon'ble High Court which shows that the stay of proceeding

has been extended. Thus, in absence of any such order from the Hon'ble High Court this court fix the appeal for final argument on 18-11-2019. The appellant is hereby directed to argue the matter on that day. Failing which adverse order shall be passed against the appellant. Hence, the present application is hereby disposed off.

RANVIR SINGH

Addl. District & Sessions Judge, IIIrd,
Siwan