2026:AHC:212048

HIGH COURT OF JUDICATURE AT ALLAHABAD

MATTERS UNDER ARTICLE 227 No. - 13664 of 2026

Amit Gupta And Another

.....Petitioner(s)

Versus

Madan Gupta (Deceased) And 8 Others

.....Respondent(s)

Counsel for Petitioner(s) : Harsh Pratap Singh Maurya, Lallan Singh, Ram Adhin

Counsel for Respondent(s) :

Court No. - 9

HON'BLE ROHIT RANJAN AGARWAL, J.

1. This is a petition on behalf of plaintiff/decree holder. Plaintiffs instituted a civil suit in the year 1994 and the said suit was dismissed on 15.11.2002 against which plaintiffs preferred a civil appeal which was allowed and the suit was decreed on 30.04.2009. Thereafter, defendants-judgment debtor filed second appeal before this Court which was dismissed on 01.09.2015, thereafter, the matter was carried to Hon'ble Supreme Court where SLP filed by judgment debtor was dismissed on 11.01.2016. In the meantime, after the suit was decreed by appellate court, plaintiff/decree holder had filed Execution Case No. 2 of 2010, which is pending consideration. The sole prayer is for expeditious disposal of the same.

2. Recently, the Apex Court, on 06.03.2025, in **Periyammal vs. Rajamani, 2025 SCC OnLine SC 507** considering the earlier judgment of the Apex Court rendered in case of **Rahul S. Shah v. Jindendra Kumar Gandhi reported in (2021) 6 SCC 418** had held that the execution proceedings should be concluded expeditiously. Relevant paragraphs are extracted hereasunder:-

> *"72. Before we close this matter, we firmly believe that we should say something as regards the long and inordinate delay at the end of the Executing Courts across the country in deciding execution petitions.*

> *73. It is worthwhile to revisit the observations in **Rahul S. Shah (supra)** wherein this Court has provided guidelines and directions for conduct of execution proceedings. The relevant portion of the said judgment is reproduced below:*

42. All courts dealing with suits and execution proceedings shall mandatorily follow the below mentioned directions:

42.1. In suits relating to delivery of possession, the court must examine the parties to the suit under Order 10 in relation to third-party interest and further exercise the power under Order 11 Rule 14 asking parties to disclose and produce documents, upon oath, which are in possession of the parties including declaration pertaining to third-party interest in such properties.

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42.5. The court must, before passing the decree, pertaining to delivery of possession of a property ensure that the decree is unambiguous so as to not only contain clear description of the property but also having regard to the status of the property.

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42.8. The court exercising jurisdiction under Section 47 or under Order 21 CPC, must not issue notice on an application of third party claiming rights in a mechanical manner. Further, the court should refrain from entertaining any such application(s) that has already been considered by the court while adjudicating the suit or which raises any such issue which otherwise could have been raised and determined during adjudication of suit if due diligence was exercised by the applicant.

42.9. The court should allow taking of evidence during the execution proceedings only in exceptional and rare cases where the question of fact could not be decided by resorting to any other expeditious method like appointment of Commissioner or calling for electronic materials including photographs or video with affidavits.

42.10. The court must in appropriate cases where it finds the objection or resistance or claim to be frivolous or mala fide, resort to sub-rule (2) of Rule 98 of Order 21 as well as grant compensatory costs in accordance with Section 35-A.

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*4**2.12. The executing court must dispose of the execution proceedings within six months from the date of filing, which may be extended only by recording reasons in writing for such delay.***

****** (Emphasis supplied)***

> *74. The mandatory direction contained in Para 42.12 of **Rahul S. Shah (supra)** requiring the execution proceedings to be completed within six months from the date of filing, has been reiterated by this Court in its order in Bhoj Raj Garg v. Goyal Education and Welfare Society, Special Leave Petition (C) Nos. 19654 of 2022."*

3. In view of the said fact, the Executing Court is hereby directed to proceed with the Execution Case No. 2 of 2010 and decide the same in the light of the dictum of Hon'ble Apex Court within a period of six months from the date of production of certified copy of this order.

4. With the aforesaid observations, writ petition stands **disposed of.**

October 9, 2026
(V. S. SINGH)

(Rohit Ranjan Agarwal,J.)

Digitally signed by :-
VIDYA SAGAR SINGH
High Court of Judicature at Allahabad