

Chief Justice's Court

Case :- MATTERS UNDER ARTICLE 227 No. - 3341 of 2017

Petitioner :- Anjuman Intazamia Masazid Varanasi

Respondent :- Ist A.D.J. Varanasi And Others

Counsel for Petitioner :- Sri S.F.A. Naqvi, Senior Advocate, Puneet Kumar Gupta, Syed Ahmed Faizan

Counsel for Respondent :- Ajay Kumar Singh, Vijai Shankar Rastogi, Sunil Rastogi, Tejas Singh, M.C. Chaturvedi, learned AAG, Kunal Ravi Singh, CSC, Vijay Shanker Mishra, CSC-VI, Hare Ram Tripathi, SC, Sri Ankit Gaur, SC, Vineet Sankalp, SC, Shashi Prakash Singh, ASGI, Manoj Kumar Singh, Ved Mani Tiwari and Sudarshan Singh learned CGCs

CONNECTED WITH

Matters Under Article 227 Nos. 3562 of 2021, 1521 of 2020, 234 of 2021 and 3844 of 2021.

Hon'ble Pritinker Diwaker, Chief Justice

Order on Second Misc. Application No.12 of 2023.

1. An application has been moved in the present case on behalf of the petitioner to identify the applicant, on whose application filed on 27.07.2023, the Chief Justice has passed the administrative order dated 11.8.2023 to withdraw the cases from the earlier Bench, as is referred to in the previous order of this Court dated 28.08.2023. Relevant assertions made in this application are extracted hereinafter:

“7. That few major factors were missing in the application filed by the unknown advocate before Hon'ble the Chief Justice. Firstly it had not delivered proper factual position regarding filing of petition no. 3844 of 2021 and 3562 of 2021 and subsequently passing of detailed order in both the petitions on 09.09.2021 staying the further proceedings of original suit no. 610/1991 as well as fixing the matter for further hearing on 08.10.2021.

8. That the matter was heard extensively on various occasions collectively but at no point of time any objection has been raised by the mysterious counsel regarding hearing of the matter by the Hon'ble judge.

9. That secondly as mentioned in the order of Hon'ble the Chief Justice dated 28.08.2023 that all these matters were heard extensively for about

75 days and in such circumstance it is not a matter which should be covered by either Anil Rai's case or Umesh Rai's case. On the other hand the same is a part heard matter which regularly and extensively heard for more than 75 days but at no point of time any counsel appearing in this case from either parties raised any grievance of regular hearing of the matter. This aspect is fully covered, as held in para 34 of the full bench of this Hon'ble court delivered in Amar Singh case.

10. That the pseudonymous complaint emerged on 27.07.2023 i.e. after reserving the judgment by this Hon'ble Court on 25.07.2023 is an incomprehensible phenomenon. As the judgment in the main proceeding i.e. Matter under Article 227 No. 3341 along with connected petitions was reserved on 15.03.2021 after extensive hearing, but this mystery man/counsel silently participated in the proceedings from 15.03.2021 to 27.07.2023 i.e. for two years four months twelve days by arguing it on behalf of the party he is representing.

11. That in view of the above fact and circumstances it is humbly prayed to the Hon'ble court to provide the copy of the complaint so that name and identity of the counsel as well as the party who had moved application dated 27.07.2023 before Hon'ble Chief Justice for transferring the case to some other bench be known to all in the interest of transparency. And further be pleased the same may also be then verified that whether such an application had been filed by an advocate appearing on behalf of opposite parties/plaintiff. And further prayed that in the meanwhile present proceedings be not restarted in the interest of justice."

2. Following prayers are thus made in the application:-

a. To provide the copy of the complaint so that name and identity of the counsel as well the party who had moved application dated 27.07.2023 before Hon'ble Chief Justice for transferring the case to some other bench be known to all in the interest of transparency.

b. The same may also be then verified that whether such an application had been filed by an advocate appearing on behalf of opposite parties/plaintiff.

c. In the meanwhile present proceedings be not restarted in the interest of justice.

d. And further be pleased to take instant supplementary affidavit on record otherwise applicant shall suffer irreparable loss and hard injuries."

3. Learned Senior Counsel appearing for the petitioner submits that the identity of the applicant is necessary to be known before the hearing proceeds in the petitions, any further. A further prayer is made to defer the hearing of the petitions, till then.

4. Reasons are contained in the administrative order of the Chief Justice dated 11.08.2023 for withdrawing the cases from the previous Court, which are extracted in the subsequent judicial order passed by this Court on 28.08.2023. It is apparent that the purpose of passing the order dated 28.08.2023 is to insulate the proceedings of these cases from procedural aberrations, noticed in the order itself, and thereby subserve the larger public interest of ensuring faith in the justice dispensation system.

5. So far as the application filed before the Chief Justice on the administrative side is concerned, the contents thereof have already been extracted in paragraph no. 9 of the order dated 28.08.2023. The order ensures that proceedings of the instant cases are held in accordance with the administrative order of the Chief Justice dated 16.12.2013, as interpreted by the Full Bench of this Court in the case of Amar Singh vs. State of U.P., Criminal Appeal No. 4922 of 2006.

6. Identity of the applicant who highlighted the procedural impropriety in hearing of the writ petitions is not material. What is material and important is the sanctity of the court proceedings itself. The limited purpose served by the application dated 27.07.2023 is that the procedural impropriety arising in the proceedings got highlighted before the Chief Justice, on the administrative side, so that mandatory procedures for hearing of writ as per the Rules of the Court are complied with. It is otherwise open for any party to apply for inspection of records of the writ proceedings and ascertain the identity of the applicant who filed the application dated 27.7.2023. Filing of an application on the judicial side or making of prayer to defer the hearing in the matters, for such reasons, appears to be wholly uncalled for.

7. Which party invited the attention of the Chief Justice to procedural impropriety in conduct of hearing or who moved the application are of little significance. These aspects ought to have been taken note of by the Registry on its own. However, as the case file itself was not restored to the concerned section, as was required in terms of the procedure settled, the office apparently could not secure compliance of necessary procedures for hearing of the cases. Now when correct facts are noticed and necessary orders have been obtained from the Chief Justice, on the administrative side, which is specified in the previous order of the Court dated 28.08.2023, there is no occasion for this Court not to proceed with the hearing of the cases.

8. Facts, noted in the order of the Court dated 28.08.2023, regarding procedural impropriety in conduct of the cases are otherwise not disputed. The fact that there was no order of nomination for hearing these cases by the earlier Bench, as per roster, is also not disputed. The administrative order of the Chief Justice dated 16.12.2013, as also the Full Bench judgment interpreting the said order, and its applicability on the facts of these cases having not been doubted, there is no occasion for the petitioner to pray for deferment of the proceedings on the grounds urged in the application dated 18.09.2023. Consequently, the application dated 18.09.2023 is found to be bereft of any merit and is, consequently, **rejected**.

9. List the petitions on 4.10.2023 for further hearing.

Order Date :- 18.9.2023

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(Pritinker Diwaker, CJ)