

B,
ITEM NO.104

COURT NO.7

SECTION XIA

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS
CIVIL APPEAL NO(s). 5006 OF 2004

UMESH CHALLIYIL Appellant (s)

VERSUS

HARIDASAN PALAYIL & ORS. Respondent(s)

(With appln(s) for impleadment and office report)

WITH SLP(C) NO. 7000 of 2006
(With office report)

Date: 28/02/2013 These matters were called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE B.S. CHAUHAN
HON'BLE MR. JUSTICE FAKKIR MOHAMED IBRAHIM KALIFULLA

Civil Appeal No. 5006/2004

For Appellant(s)

Mr. Roy Abraham, Adv.
Ms. Seema Jain, Adv.
Ms. Reena Ray, Adv.
Mr. Himinder Lal, Adv.

For Respondent(s)

Mr. Deepak Prakash, Adv.
Ms. Leena Nair, Adv.
Mr. M.K. Tiwari, Adv.
Mr. Arvind Kumar, Adv.

(State of Kerala)

Mr. Ramesh Babu M.R., Adv.
Mr. G. Prakash, Adv. (N.P.)

For Intervenor(s)

Ms. Nishe Rajen Shonker, Adv.

SLP(C) No. 7000/2006

For Petitioner(s)

Petitioner-in- person
Mr. K.V. Vishwanathan, Sr. Adv. (AC)
Mr. Abhishek Kaushik, Adv.
Mr. Gautam S. Bharadwaj, Adv.

For Respondent(s)

(State of Kerala)

Mr. Ramesh Babu M.R., Adv.

R-2

Ms. Shashi Juneja, Adv.
Mr. Ranji Thomas, Adv.
Mr. V.N. Raghupathy, Adv.

- 2 -

UPON hearing counsel the Court made the following
O R D E R

C.A. No. 5006/2004

The appeal is dismissed as having become infructuous, in terms of the signed order.

In view of the above, all pending IAs also do not survive and stand disposed of.

SLP(C) No. 7000/2006

Heard petitioner-in-person.

The petitioner-in-person has challenged the orders dated 1st August, 2003 and 1st April, 2004 in O.P. No. 9552/2002 and Review Petition No. 708 of 2003 and also order dated 17th October, 2005.

The petitioner-in-person filed a Public Interest Litigation challenging the orders contained in Annexure P-1 and P-2 providing certain austerity measures. The matter came up for hearing before the Court on 1st August, 2003. The Court was informed that the orders dated 16th January, 2002(Annexure P-I) and January 30, 2002(Annexure P-2) were no more in existence rather the same had been modified and the orders had been passed as the State was facing the financial difficulties. Taking note of modification of the orders under challenge, the High Court had no option but to close the case. Aggrieved, the petitioner filed the review petition which was dismissed by the High Court and second Review Petition was also dismissed.

In view of the fact that the order which was challenged by the petitioner had been modified, the only option left to the petitioner was to challenge the modified order, if so advised, as the orders under challenge were no more in existence.

In view of the above, we do not see any fault with the impugned orders. The special leave petition is dismissed accordingly.

(O.P. Sharma)	(Deepak Mansukhani)	(M.S. Negi)
Court Master	Court Master	Court Master
IN THE SUPREME COURT OF INDIA		

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(s). 5006 OF 2004

UMESH CHALLIYIL

Appellant (s)

VERSUS

HARIDASAN PALAYIL & ORS.

Respondent(s)

O R D E R

This appeal relates to the sanctity of the oath taken by

the Member of the Legislative Assembly.

The High Court after hearing the parties came to the conclusion that oath has not been taken in the prescribed form, however, gave opportunity to third respondent-appellant herein to take oath again and in pursuance of the order passed by the High Court, oath was taken. The period for which the Hon'ble Member was elected for the Legislative Assembly has already lapsed. The matter has become infructuous. The civil appeal is therefore dismissed as having become infructuous. However, considering the importance of the case, the question of law is left open to be decided in an appropriate case.

In view of the above, all pending IAs do not survive and stand disposed of.

.....J.
[DR. B.S. CHAUHAN]

NEW DELHIJ.
FEBRUARY 28, 2013 [FAKKIR MOHAMED IBRAHIM KALIFULLA]