

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

I.A.No.6

IN

CIVIL APPEAL NO.2558 OF 2006

ARUN KUMAR MISHRA

.....APPELLANT(S)

VERSUS

SANJAY TIWARI & ORS

.....RESPONDENT(S)

WITH

I.A.No.4

IN

SPECIAL LEAVE PETITION (C) NO.4672 OF 2006

O R D E R

I.A.No.6 in C.A.No.2558/2006

Heard Mr.Ashok H.Desai,learned senior counsel appearing on behalf of the

appellant/petitioner/applicant and Mr.Viplav Sharma, learned counsel appearing on

behalf of respondent No.1 in C.A.No.2558/2006.

We have perused the Order dt.09.05.2006 passed by this Court in

C.A.No.2558/2006 which reads as under :-

"Leave granted.

After hearing the learned counsel on both sides, we are satisfied that the Appellant - Arun Kumar Mishra could not have been summoned in the manner that has been done. If, at all, the Respondents desired to make allegations of mala fides against the said Arun Kumar Mishra in Civil Misc. Writ Petition No.45047 of 2005, the proper procedure would have been to make an application for impleadment on which notice ought to have been

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served on the said Arun Kumar Mishra and a final order passed by the Court after giving him an opportunity of fair hearing. Unfortunately, this basic procedure seems to have been overlooked by the High Court.

In the circumstances, we were required to pass the order of stay of entire further proceedings. However, at this stage Dr. Singhvi, who appears for the Respondent, states that the name of Arun Kumar Mishra may be deleted from the array of parties from Civil Misc. Writ Petition No.45047 of 2005.

On his request, we delete the name of Arun Kumar Mishra from the array of parties from Civil Misc. Writ Petition No.45047 of 2005. This shall be without prejudice to the right of the Respondents to move an appropriate application as required under the Civil Procedure Code for impleadment of Arun Kumar Mishra, in case he is desired to be made party to the said Writ Petition.

In view of this order, the order directing Arun Kumar Mishra to remain present before the High Court is hereby quashed and set aside.

Subject to the above, the Appeal is allowed in the aforesaid terms. No order as to costs.

In view of this order, interim orders are vacated. The Writ Petition shall be heard on its merits. "

Mr.Ashok H.Desai, learned senior counsel for the appellant/petitioner/applicant

submits that WP Nos.572/06 and 598/06 have nothing to do with CMWP No.45047/05.

The High Court by its order dt.24.02.2006 impleaded Arun Kumar Mishra and treated

the matter as part-heard along with other connected Writ Petition Nos.572/06 and

598/06. Since it is submitted that both the Writ Petition Nos.572/06 and 598/06 have

nothing to do with CMWP No.45047/2005, the petitioner Arun Kumar Mishra is at

liberty to move the High Court for delinking those two Writ Petitions and dispose of the

same independently.

The submission of Mr.Ashok Desai that Writ Petition Nos.572/05 and 598/06 are

not connected with CMWP No.45047/2005 is disputed by Mr.Viplav Sharma, learned

counsel for the respondent. The statement is recorded and the said parties are at liberty

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to move the High Court. I.A.No.6 is disposed of accordingly.

I.A.No.4 in SLP(C) No.4672/2006

The order passed in I.A.No.6 in C.A.No.2558/2006 will govern I.A.No.4 in SLP

(C) No.4672/2006 also which is without prejudice to the rights of the respondent-Union.

I.A.No.4 is disposed of accordingly.

.....J.

(Dr. AR. LAKSHMANAN)

.....J.

(TARUN CHATTERJEE)

NEW DELHI;

AUGUST 18, 2006.

ITEM NO.4

COURT NO.9

SECTION XI

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

IA No.6 IN CIVIL APPEAL NO. 2558 OF 2006

ARUN KUMAR MISHRA

Appellant (s)

VERSUS

SANJAY TIWARI & ORS

Respondent(s)

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(For clarification of court's order dt.09.05.2006)

With

IA No.4 In SLP(C) NO. 4672 OF 2006

(For clarification of court's order dt.09.05.2006 and office report)

Date: 18/08/2006 This Appeal was called on for hearing today.

CORAM :

HON'BLE Dr. JUSTICE AR. LAKSHMANAN

HON'BLE MR. JUSTICE TARUN CHATTERJEE

For Appellant(s)/

Petitioner/

Applicant

Mr.Ashok H.Desai, Sr.Adv.

Mr. Ravi Prakash Mehrotra,Adv.

Mrs.Deepti R.Mehrotra, Adv.

For Respondent(s)

For RR-1 in

CA 2558/2006

Mr.Viplav Sharma, Adv.

Mohd. Taiyab Khan, Adv.

Mr.Wasim Khan, Adv.

Mr. Shakil Ahmed Syed,Adv.

Mr.V.K.Shukla, Adv.

Mr. Anil K. Chopra, Adv.

Mr.Garvesh Kabra, Adv.

Mr.Pradyot Kumar Chakravarty, Adv.

UPON hearing counsel the Court made the following

O R D E R

I.A.No.6 In CA No.2558/2006 and I.A.No.4 in SLP(C) No.4672/2006 are disposed of in terms of

the signed order.

(Satish K. Yadav)

Court Master

(Phoolan Wati Arora)

Court Master

(Signed order is placed on the file)