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C.A.No. 6707 OF 1999

ITEM No.301

Court No. 5

SECTION XVI

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.6707/1999

(From the judgement and order dated 05/02/1999 in WP 17036/97
of The HIGH COURT OF CALCUTTA)

TARAK SINGH & ANR

Appellant (s)

VERSUS

JYOTI BASU & ORS

Respondent (s)

(With Office Report)

With

W.P(C)No.216/1999

(With appln.(s) for Directions and Office Report)

Date : 12/07/2004 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.N. VARIAVA

HON'BLE MR. JUSTICE H.K. SEMA

For Appellant (s) in C.A.No.6707/99 : Ms.Kamini Jaiswal, Adv.

Mr.Amlesh Roy, Adv. &

Mrs Sarla Chandra,Adv.

For the Petitioner(s) in W.P.(C)

No.216/1999

Mr.Prashant Bhushan, Adv.

Mr.Rohit Kumar Singh, Adv.

For the Respondent State of

West Bengal in both SLP

and WP

Ms.A.Subhashini, Adv.

For Respondent No.24

(Justice Bhagabati Pd.Banerjee) Mr.A.K.Ganguli, Sr.Adv.

Mr.Moloy Singh, Adv.

Mr.Pranab Kumar Mullick, Adv.

For Respondent No.6 in

W.P.(C) No.216/99: Mrs.V.K.Khanna, Adv.

Mr.S.K.Shandilya, and

Mr.Prateek Kumar, Adv.

For Respondent (s): Mr.K.K.Venugopal, Sr.Adv.

Mr. H.K. Puri,Adv.

Mr. Ujjwal Banerjee,,Adv.

Mr.S.K.Puri and

Mr.Shiv Gupta, Adv.

For Respondent No.3,4 & 5: Mr.T.R.Andhyarujina,Sr.Adv.

Mr.Tara Chandra Sharma,Adv.

Ms.Neelam Sharma, Adv.

Mr.Rajeev Sharma,Adv.

Mr.Tarun Sharma, Adv.

UPON hearing counsel the Court made the following

O R D E R

This Court, had by order dated 13th November, 2003 called upon the High Court of Calcutta to forward papers and proceedings in C.O.No.7553(W) of 1986 titled Bidhanagar (Salt Lake) Welfare Association & Ors. Vs. State of West Bengal & Ors.. This Court has also called for all order sheets in that matter. The High Court was also directed to inform this Court whether C.O.No.15381 (W) of 1984 has been disposed of and, if not, at what stage the proceedings were.

No reply was received from the High Court of Calcutta. On 13th January, 2004 this Court directed the Registry to send a reminder to the High Court of Calcutta. The High Court of Calcutta then sent papers and record of Writ Petition No.7553 of 1986 but did not send any record of C.O.No.15381 (W) of 1984. By this Court's Order dated 17th March, 2004 the High Court of Calcutta was directed to send records of C.O.No.15381(W) of 1984 and to also inform this Court whether Writ Petition No.7553 (W) of 1986 was listed on 17th July, 1987 or not and whether between 17th July, 1987 and 1st October, 1999 the matter was listed on any date and, if so, before whom and, if not, why not. The High Court was directed to indicate where the papers were lying during this period. The High Court of Calcutta by its letter dated 3rd April, 2004 informed this Court that C.O.No.15381 (W) of 1984 had not been registered in that court and that from the Rule Register maintained by that Court the last number registered for 1984 was C.O.No.3543 of 1984. This Court by order dated 20th April, 2004 then directed the High Court to trace out papers of Writ Petition filed by the Association of Salt Lakes and adjourned the matter to 13th July, 2004. The High Court, by its letter dated 6th July, 2004 informed this Court that C.O.No.15381 (W) of 1984 was heard and disposed of by discharging the Rule by Hon'ble Justice Mrs.Padma Khastgir on 14th March, 1990 and that the record had been deposited with the Record Department on 20th April, 1990 but on 7th February, 1991 were again sent to Court No.11 on requisition and that since then the record could not be traced out as they were reportedly not returned to the Record Room Department. The High Court has, therefore, purportedly reconstructed the record and sent a copy thereof to this court.

In our view, the replies of the High Court of Calcutta, to the queries of this Court, are far from satisfactory and show, to say the least, a bad state of affairs. The High Court of Calcutta has still not answered the query of this court whether Writ Petition no.7553 (W) of 1986 was listed on 17th July, 1987 or not. It has not answered the query whether that matter was listed on any date thereafter prior to 1st October, 1999 and, if so, before whom and if not, why not. The High Court has not indicated where those papers were lying during that period. Further, as indicated above, the High Court, by its letter dated 3rd April, 2004 informed this Court that CO No.15381 (W) of 1984 had not been registered in that court as the last number in the register was CO No.3543 of 1984. Yet now by letter dated 6th July, 2004 they informed this Court that C.O.No.15381 (W) of 1984 had been disposed of on 14th March, 1990 by Rule being discharged.

In our view, it is now time that the Chief Justice or the Acting Chief Justice of the High Court of Calcutta to personally look into the matter and see that the queries of this Court are answered and that all relevant papers are sent to this Court. The High Court to also ascertain and inform this Court the name/s of the Judge/Judges had presided over in Court No.11 when the papers of Writ Petition no.15381(W) of 1984 were requisitioned by that court on 7th February, 1991. If possible, all the orders in CO No.15381 (W) of 1984 may also be reconstructed and sent to this court. Adjourned for six weeks.

(G.V.Ramana)(Jasbir Singh)
Court Master Court Master