

ITEM NO.43

COURT NO.1

SECTION XVII

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

CIVIL APPEAL NO(s). 3578 OF 2005

DAYANAND RAYU MANDREKAR

Appellant (s)

VERSUS

CHANDRAKANT UTTAM CHODANKAR AND ORS.

Respondent(s)

(With appln(s) for ex-Parte stay and deletion of the name of respondent)

WITH

Civil Appeal NO. 3579 of 2005 (Rajendra Vishwanath Ariekar vs. Jose
Philips Domingo D'Souza and Ors.)

(With appln(s) for ex-Parte stay and deletion of the name of respondent)

Date: 13/07/2005 These Appeals were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE P.K. BALASUBRAMANYAN

For Appellant (s) Mr. Mukul Rohtagi, Sr. Adv.
 Mr. Dhruv Mehta, Adv.
 Mr. Mohit Chaudhary, Adv.
 Mr. Harshvardhan Jha, Adv.
 for M/s K.L. Mehta & Co.,Adv.

For Respondent(s)

No. 1 in both appeals Mr. M N Krishnamani, Sr. Adv.
 Mr. Bhavanishankar V Gadnis, Adv.
 Mr. S U K Sagar, Adv.
 Ms. Bina Madhavan, Adv.
 Ms. Pooja Nanekar Gupta, Adv.
 Ms. Susan Zachariah, Adv.
 Mr. A Venayagam, Adv.
 for M/s. Lawyer's Knit & Co,Adv.

No. 4 in CA 3578/05 Dr. A M Singhvi, Sr. Adv.
& No. 2 in CA 3579/05 Mr. Shrinivas Khalap, Adv.
 Ms. Rajshri Shivale, Adv.
 Mr. Ashok Mathur, Adv.

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UPON hearing counsel the Court made the following

O R D E R

C.A. No. 3578/2005

Admit.

Counsel for respondent No. 1 and respondent No. 4,

present in the Court, take notice.

The appellant has sought for respondents Nos. 2 to 10 being deleted from the array of parties. Dr. A M Singhvi, learned senior counsel appearing for respondent No. 4 submits that respondent No. 4 is a necessary party and cannot be permitted to be deleted from the array of parties.

After hearing the learned senior counsel for the appellant and the learned senior counsel for respondent No. 4, we direct that respondents Nos. 2, 3 and 5 to 10 be deleted from the array of the parties. So far as respondent No. 4 is concerned, prima facie we are of the opinion that if the appellant does not wish the appeal to be proceeded against respondent No. 4, the appellant cannot be compelled to proceed against his wishes. Still inasmuch as respondent No. 4 has made appearance, we leave the prayer for deleting the name of respondent No. 4 from the array of parties to be taken up for consideration at the time of final hearing of the appeal.

Heard on the prayer for grant of interim relief.

Prayer for interim relief sought in terms as prayed for is

refused. However, it is directed that during the hearing of

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the appeal, the appellant may continue to sit in the Assembly

and sign the Register kept in the House for that purpose, but

he will not participate in the proceedings nor vote nor draw

any remuneration in his capacity as Member of the Legislative

Assembly.

C.A. No. 3579/2005

Admit.

Counsel for respondent No. 1 and respondent No. 2,

present in the Court, take notice.

The appellant has sought for respondents Nos. 2 to 8

being deleted from the array of parties. Dr. A M Singhvi,

learned senior counsel appearing for respondent No. 2

submits that respondent No. 2 is a necessary party and cannot

be permitted to be deleted from the array of parties.

After hearing the learned senior counsel for the appellant and the learned senior counsel for respondent No. 2, we direct that respondents Nos. 3 to 8 be deleted from the array of the parties. So far as respondent No. 2 is concerned, prima facie we are of the opinion that if the appellant does not wish the appeal to be proceeded against respondent No. 2, the appellant cannot be compelled to proceed against his wishes. Still inasmuch as respondent No. 2 has made appearance, we leave the prayer for deleting the name of respondent No. 2 from the array of parties to be taken up for consideration at the time of final hearing of the appeal.

Heard on the prayer for grant of interim relief.

Prayer for interim relief sought in terms as prayed for is refused. However, it is directed that during the hearing of

the appeal, the appellant may continue to sit in the Assembly and sign the Register kept in the House for that purpose, but

he will not participate in the proceedings nor vote nor draw

any remuneration in his capacity as Member of the Legislative

Assembly.

(D.P. WALIA)

COURT MASTER

(RADHA R. BHATIA)

COURT MASTER