

SECTION-IX
IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

PETITIONS FOR SPECIAL LEAVE TO APPEAL (CIVIL) NOS. 2492-2493 AND 17461
OF 2011

WITH PRAYER FOR INTERIM RELIEF

MEHTAB (D) BY LRS. & ORS.

...PETITIONERS

-VERSUS-

ABDUL HAMID & ORS.

...RESPONDENTS

OFFICE REPORT

PETITIONS FOR SPECIAL LEAVE TO APPEAL (CIVIL) NOS. 2492-2493 OF 2011

The matters above mentioned were listed before the Hon'ble Court on 07th February,2011 when the Court was pleased to pass the following Order:

"Issue notice.
Dasti, in addition, is also permitted.
Status quo, as obtaining today, shall be
maintained until further orders.
Liberty is granted to file additional
documents."

And lastly, the matters above mentioned were listed before the Court of Registrar on 16th September, 2014, when the following Order was passed:

"What gets revealed from the perusal of the office report is that although two opportunities have already been given to the served respondents to file the counter affidavit, yet they have not done the needful so far. Therefore, no further opportunity is warranted to be given to them on that count taking into consideration the rule position. Viewed in that context, the matter shall be processed for listing before the Hon'ble Court under the rules."

It is submitted for the information of the Hon'ble Court that there are common forty four respondents in the instant matters. Accordingly, show cause notice was issued to the respondents by registered A. D. post as well as by dasti mode and through Trial Court. Respondent Nos. 1, (2, 3, 5, 6 & 8) and 22 are represented through M/s. Nishant R. Katneshwarkar, Shekhar Kumar and Satya Mitra, Advocates respectively. Counsel for respondent Nos. (2, 3, 5, 6 & 8) has filed counter-affidavit and the same has been included in the paper-books. Counsel for respondent Nos. 1 and 22 have not filed counter-affidavit so far. Counsel for the petitioner has filed affidavit of dasti service in respect of the other respondents except respondent Nos. 7 and 13. However, A. D. card

duly signed has been received back from respondent No. 7 and respondent No. 13 has been served through Trial Court but no one has entered appearance on their behalf so far. Respondent No. 4 has expired and an application for substitution to bring on record Lrs. of deceased respondent No. 4 has been rejected by the Hon'ble Judge-in-chambers vide order dated 24.03.2014.

Service of notice is complete.

PETITION FOR SPECIAL LEAVE TO APPEAL (CIVIL) NO. 17461 OF 2011

The matter above mentioned was listed before the Hon'ble Court on 06th July, 2011 when the Court was pleased to pass the following Order:

"Issue notice on the application for condonation of delay as well as on the Special Leave Petition.

Dasti, in addition, is also permitted.

Status-quo, as obtaining today, shall be maintained by the parties until further orders.

Liberty is granted to file additional documents.

Tag with SLP (C) Nos. 2492-2493 of 2011."

Thereafter, the matters above mentioned was listed before the Hon'ble Judge-in-chambers on 25th November, 2013 when His Lordship was pleased to pass the following Order:

"Learned counsel for the petitioner says that he will file proof of publication with respect to Respondent No.5(c) and 6 within a week.

Learned counsel also says that the proposed Lr.(1) of Respondent No.4 has died, he will file affidavit in this regard.

Issue fresh notice to the remaining proposed Lrs. of deceased Respondent No.4 returnable in four weeks.

Dasti, in addition, is permitted."

And lastly, office report on default regarding non-filing of affidavit of dasti service in respect of proposed Lrs. of deceased respondent No. 4 in the matters above mentioned was listed before the Hon'ble Judge-in-chambers on 02nd December, 2015 when His Lordship was pleased to pass the following Order:

"Learned counsel for the petitioners seeks and is granted four weeks' time to apply for substituted service."

It is submitted for the information of the Hon'ble Court that pursuant to Court's order dated 06.07.2011, the instant matter has been tagged with SLP (C) Nos. 2492-2493 of 2011. There are respondent Nos. 1 to 4, 5(a) to 5(c), 6 to 30 and 31(1)

to 31(8) in the instant matter. Accordingly, show cause notice was issued to all the respondents by registered A. D. post as well as by dasti mode. Respondent Nos. 1, 3 and {31(1) to 31(8)} are represented through M/s. Nishant R. Katneshwarkar, Shekhar Kumar and Shirish K. Deshpande, Advocates respectively. A. D. cards duly signed have been received from respondent Nos. 2, 5(a), 5(b), 11, 16, 18, 23, 24 and 25. Counsel for the petitioners has filed affidavit of dasti service on behalf of respondent Nos. 7 to 15, 17, 19 to 22 and 26 to 30. Service on respondent Nos. 5(c) and 6 by way of publication in the newspaper but no one has entered appearance on their behalf of the above respondents. Respondent No. 4 has expired and counsel for the petitioners has filed an application for substitution of Lrs. of deceased respondent No. 4 in which fresh notice was issued vide Hon'ble Judge-in-chambers order dated 25.11.2013.

It is further submitted that pursuant to Hon'ble Judge-in-chambers order dated 02.12.2015, counsel for the petitioner has not filed any application for substituted service on the unserved proposed Lrs. of deceased respondent No. 4. Hence, service of notice is not complete on proposed Lrs. of deceased respondent No. 4.

The matters above mentioned are listed before the Hon'ble Court with this report.

Dated this the 27th day of April, 2017.

ASSISTANT REGISTRAR

Copy to:

Mr. Ashok Kumar Gupta II, Advocate
Mr. Nishant Ramakantrao Katneshwarkar, Advocate
Mr. Satya Mitra, Advocate
Mr. Shirish K. Deshpande, Advocate
Mr. Shekhar Kumar, Advocate

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ASSISTANT REGISTRAR