

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

BEFORE THE REGISTRAR S.G. SHAH

Petition(s) for Special Leave to Appeal (Civil) No(s).2550/2009

SHANTI DEVI & ORS. Petitioner(s)

VERSUS

STATE OF HARYANA & ORS. Respondent(s)

(With prayer for interim relief and office report)

Date: 15/07/2011 This Petition was called on for hearing today.

For Petitioner(s)

Mr V Sushant Gupta, Adv.
Dr. Kailash Chand, Adv.

For Respondent(s)

Mr Manjit Singh, Adv.
Mr. Kamal Mohan Gupta, Adv.
Mr Govind Goel, Adv.
Ms Naresh Bakshi, Adv.UPON hearing counsel the Court made the following
O R D E R

Unfortunately the office report says that respondent
no.2 is unserved.

On enquiry, the ld. Advocate for the petitioner says
that unserved respondent No.2 is Mr Naresh Bakshi and he has
filed counter affidavit and therefore notice is to be considered
as duly served. On verification of record, it is found that there

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is no counter affidavit by respondent No.2 and respondent No.2 is
not the person namely, Mr Naresh Bakshi, but it is Director, Town
and Country and Planning of Haryana.

On further verification it has been noticed that SLP is
filed in the year, 2008 wherein Hon'ble Court has on 20.2.2009
ordered to issue notice with a direction not to dispossess the
petitioner from the premises until further orders.

Thereafter matter was adjourned repeatedly for confirmation of service on unserved respondents on different dates viz. 4.5.2009, 23.7.2009, 28.8.2009, 7.10.2009, 20.11.2009, 27.10.2010, 10.1.2011, 18.2.2011, 13.3.2011 and 25.4.2011. On all such dates my predecessor had granted time for confirming service as well as for filing counter affidavit. Out of all such dates, at least on 23.7.2009 and 20.11.2009, my predecessor has recorded the statement of one, Ms Naresh Bakshi that she is appearing for respondent No.4 and that she has filed counter affidavit. On 27.8.2010 the Hon'ble Judge in Chamber has also recorded that as Ms Naresh Bakshi confirms that she is appearing for respondent Nos. 1 and 3, service upon such respondents is to be considered as complete. Compilation of all above orders makes it clear that respondent No.2 remains unserved, for whom there is an order to issue fresh notice on 28.8.2009 and 20.11.2009. However, though in an order dated 10.1.2011 there is an observation that the ld.

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Advocate, Mr Sanjeev Kumar appearing on behalf of Mr Kamal Mohan

Gupta, Advocate-on-record has put in appearance on behalf of

respondent Nos. 1 to 3 and seeks time to file counter affidavit;

record does not show either his appearance or vakalatnama and

fact remains that the ld. Advocate, Ms Naresh Bakshi has filed

vakalatnama only for respondent No.4-HUDA only on 25.11.2010.

Thereafter in order dated 18.2.2011 again my

predecessor has observed that nobody has filed vakalatnama and

counter affidavit for respondent Nos. 1,2,3 and 5 whereas by an

order dated 30.3.2011 my predecessor has directed the petitioner

to take fresh steps for confirming service upon unserved

respondent No.2 within a week with a rider that failing which

appropriate orders shall follow on the next date. Even on

25.4.2011, my predecessor has granted one weeks' more time to the

petitioner to take fresh steps so far as unserved respondent No.2

is concerned.

Unfortunately I did not find any proper proof of service upon respondent Nos. 1,2,3 and 5. Respondent no.4 has filed appearance through the ld. Advocate, Ms Naresh Bakshi. Registry has to verify the record and to make precise statement about the proper proof of service upon respondent Nos. 1,2,3 and 5. Unfortunately after all above exercise, the fact remains that

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practically there is no proper proof of service on record till date i.e., even after more than 30 months.

Interest of the petitioner is protected by interim order dated 20.2.2009. Matter is unnecessarily lingering before the Court of Registrar due to improper statements by the ld. Advocates who are appearing for different litigants, either for the petitioner or for the respondent. This Court has repeatedly directed petitioners to provide additional copies of pleadings to the concerned Advocate who disclosed their desire to appear and to file vakalatnama in the given case against proper acknowledgment to be filed on record so as to avoid issuance of further notices and to consider the concerned respondent as duly served.

In the present case, the fact remains that all the respondents are State authorities and on different dates, different Advocates has shown their desire to file appearance for such authorities.

At least on 27.8.2010, the ld. Advocate, Ms Naresh Bakshi has stated before the Hon'ble Judge in Chamber that she is appearing for respondent Nos. 1 and 3. Thereafter she has filed vakalatnama only for respondent No.4 on 25.11.2010. Thereafter, the ld. Advocate, Mr Sanjeev Kumar appearing on behalf of Mr Kamal Mohan Gupta, Advocate-on-record has appeared for respondent Nos. 1 and 3 but there is no clarity so far as

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respondent no.2 is concerned which is also none but the officer

of respondent No.1. However, for all these two years, petitioner has never bothered to serve one of the respondents, being respondent No.5 who is practically with them. She being co-litigant with the present petitioners before the High Court and therefore, petitioners have disclosed her as proforma respondent. The fact remains that petitioner has failed to take appropriate steps to confirm service upon all the unserved respondents for all these more than 30 months. More particularly in view of the fact that Advocates appearing before this Court are taking such Court lightly and wasting the valuable time of judicial process, they are unable to file appearance even after they confirm that they want to appear for the Court.

One another aspect of such case is that listing of such case in Court on repeated date certainly cost to all litigants. At least Government has to pay appearance charges to the concerned Advocates. Maybe for these reasons Advocates are always keen to disclose their name in the appearance sheet and pressing to record their appearance.

For the petitioners, who has got interim order in their favour, it is a lottery ,if the matter is being adjourned for nothing on different dates before the Registrar Court, since thereby it would not be listed before the main Court for final

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disposal. For all such reasons, now it is high time to list such matters before the Hon'ble Judge in Chambers for non-prosecution.

List before the Hon'ble Judge in Chambers for non-prosecution.

However, it goes without saying that and is certain that petitioner is always entitled to confirm service of unserved respondents. Even in such cases at least before there is an order regarding non-prosecution by the competent Court. Thereby petitioner may confirm service upon all unserved respondents either directly or through the standing counsel/Ld. Advocate who has shown their desire to appear for such litigant. It is also

clear that even for unserved respondent No.2, petitioner can serve notice upon the standing counsel.

(S.G.SHAH)
Registrar

hj