

SECTION IVB

Listed on.17.04.2017

Court No.10

IN THE SUPREME COURT OF INDIA Item No.41

CIVIL APPELLATE JURISDICTION

PETITION FOR SPECIAL LEAVE TO APPEAL(CIVIL)NOS. 33606-607
and 28052-28053 OF 2009

WITH PRAYER FOR INTERIM RELIEF

AND

INTERLOCUTORY APPLICATION NO.1 in SLP (C) Nos.33606-607
of 2009

(Application for condonation of delay in filing SLP)

AND

INTERLOCUTORY APPLICATION NO.....in SLP(C)NO.
33606-607/09

(Application for substitution to bring on record the lrs
of deceased Respondent No.3(ii)

AND

INTERLOCUTORY APPLICATION NO.....in SLP(C)NO.
33606-607/09

(Application for condonation of delay in filing
substitution)

AND

INTERLOCUTORY APPLICATION NO.2-3 in SLP(C)NO.28052-53/09

(Application for substitution to bring on record the lrs
of deceased petitioner no.2)

AND

INTERLOCUTORY APPLICATION NO.4-5 in SLP(C)NO.28052-53/09

(Application for condonation of delay in filing
substitution)

Mohinder Kaur ...Petitioner(s)

Versus

State of Punjab & Ors. ...Respondent(s)

OFFICE REPORT

The matters above mentioned were listed before the
Hon'ble Court on 27.11.2009 and 18.01.2010, when the
Court was pleased to pass the following order :-

ORDER DATED 27.11.2009

" Issue notice returnable on 18th January,
2010.

The parties are directed to maintain
status quo with regard to the petitioner's
structure, till 22nd January, 2010, or until
further orders, whichever is earlier."

ORDER DATED 18.1.2010

" Learned counsel appears and submits that he has appeared on behalf of respondent No.2 and will be filing his vakalatnama within this week. Four weeks' time is granted for filing counter affidavit; rejoinder, if any, may be filed within two weeks thereafter.

It has also been submitted that respondent No.3, Mr. Bachittar Singh, has since expired. Let the same be also recorded.

The interim order, as passed, will continue in the meantime."

It is submitted that show cause notice by Regd. A.D. post was issued on 26.12.2009 and 08.01.2010 respectively in both matters.

SLP (C) Nos. 33606-33607/2009

The matter above-mentioned was lastly listed before the Ld. Registrar Court on 02.05.2016, when the following order was passed:-.

" Four weeks' time, as last opportunity, is granted to the Ld. Advocate-on-Record, Mr. Kuldip Singh for respondent No.1 for filing vakalatnama and counter affidavit.

Four weeks' time, as last opportunity, is granted to respondent No.2 for filing counter affidavit.

Legal representative Nos.(i) to (v) of deceased respondent No.3 have not filed counter affidavit. Be filed within four weeks, as last opportunity.

None appears for respondent Nos.4 and 5, despite due service.

After the expiry of four weeks' time, Registry to process the matter for being listed before the Hon'ble Court irrespective of the fact whether counter affidavit is filed or not."

It is submitted that there are total five respondents. Mr. Shekhar Kumar, Advocate has filed

Vakalatnama and Memo of Appearance on behalf of Respondent No. 2 but has not filed counter affidavit so far. Respondent Nos. 1, 4 & 5 have been served by Regd. A.D. Post/Dasti, but no one has entered appearance on their behalf so far. Mr. K.K. Mahalik, Advocate appeared before the Ld. Registrar Court on 08.12.2015 on behalf of Mr. Kuldip Singh for Respondent No. 1 (State of Punjab) has undertaken to file Vakalatnama/Memo of appearance and Counter Affidavit on behalf of Respondent No. 1, but has not filed the same so far. Lrs. of deceased Respondent No. 3 has been brought on record vide order dated 15.04.2013 of the Hon'ble Chamber Judge. Accordingly cause title have been amended and included in the paper books. Mr. B.Y. Kulkarni, Advocate has filed Vakalatnama and Memo of Appearance on behalf of Respondent Nos. 3(i)-3(iv) and counter affidavit on behalf of Respondent Nos. 3(ii). Copy of counter affidavit has been included in the paper books. Counsel for the petitioner has not filed Rejoinder Affidavit so far.

It is further submitted that Respondent No. 3(ii) has expired and counsel for the petitioner has on 09.03.2017 filed application for substitution to bring lrs of deceased Respondent No. 3(ii) on record. It is within time. The said application is defective for the reason that he has not filed the the application for exemption from filing the official translation of death certificate of deceased Respondent No. 3(ii) and also not served the copy of application on Mr. Shekar Kumar, Adv for Respondent No. 2. The defective application is circulated before Hon'ble Court.

Service is complete on all the respondents except on Respondent No. 3(ii) (dead).

SLP (C) Nos. 28052-28053/2009

It is submitted that there are total two respondents in the instant matter. Both respondents have been served through Dasti in terms of Ld. Registrar order dated 30.09.2010 but no one has entered appearance on their behalf so far.

Service of show cause notice is complete.

The matter above mentioned was lastly listed before the Ld. Registrar Court on 07.04.2011, when the following order was passed:-.

" None appears. From the perusal of the office report what comes to the fore is that service is complete as against the respondents but no nobody has caste their appearance on their behalf.

Since the matter is a complete one, appropriate steps shall therefore, be taken by the Registry for listing the same before the Hon'ble Court on its own turn."

It is further submitted that petitioner no.2 has expired and counsel for the petitioner has filed application for substitution to bring on record lrs of deceased petitioner no.2 and application for condonation of delay in filing substitution application as there is delay of 38 days in filing the application. The said applications are registered as I.A. nos. 2-3 and 4-5 respectively and are circulated before Hon'ble Court.

The matters above-mentioned alongwith I.As. are, listed before the Hon'ble Court with this office report.

Dated this the 13th day of April, 2017.

ASSISTANT REGISTRAR

Copy to :-Mr. V.K. Verma, Adv.
Mr. B.Y. Kulkarni, Adv.
Mr. Kuldip Singh, Adv.

Com1/chetan

ASSISTANT REGISTRAR