

Listed on: 30/09/2013

Before Court No:15

Item No:2

SECTION-II

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL MISCELLANEOUS PETITION NO.18735 OF 2012

(Application for clarification)

IN

PETITION FOR SPECIAL LEAVE TO APPEAL (CRL.) NO.7801 OF 2011

JEEWAN BALA

... Petitioner(s)

VERSUS

OMTYAGI & ORS.

... Respondent(s)

OFFICE REPORT

The matter above mentioned was listed before the Hon'ble Court on 10th January, 2011 when the Court was pleased to pass the following order:

**"Delay condoned.
Issue notice."**

Accordingly, Show Cause Notice was issued to all the six Respondents. Proof of service of aforesaid notice was received in respect of all the Respondents except Respondent Nos. 2,4 and 5.

It is submitted that in connection with service of notice on unserved Respondent Nos. 2,4 and 5, the matter was listed before the Court of Registrar on 22.2.2012 when the said Court was pleased to direct inter-alia issuance of fresh notice with dasti service upon the aforesaid unserved Respondent Nos. 2,4 and 5. Service was also permitted through the nearest Civil/Trial Court.

It is further submitted that return of service of notice on Respondent Nos. 2,4 and 5 issued pursuant to the above order was not received from the concerned Trial Court so far. However, affidavit of dasti service of aforesaid notice furnished to Counsel for the Petitioner by way of dasti, was filed on 9.4.2012. This affidavit was executed by one person named Dilshad who did not disclose in the aforesaid

Contd...2/-

affidavit his actual Identity/ relation with the Petitioner nor mentioned whether he was a paiokar in this matter. As per instant affidavit of service, Respondent Nos. 4 and 5 refuse to receive the dasti notice. No proof of service was filed in respect of Respondent No. 2.

It is submitted that subsequently the matter was listed before the Court of Registrar on 10.4.2012, when the aforesaid Court directed inter-alia that if the Petitioner fails to file proper proof of service on Respondent Nos. 4 and 5 on or before 7.5.2012 matter shall be listed before the Hon'ble Judge-in-Chamber for non-prosecution. Vide the same order Petitioner was also directed to take appropriate steps for service on Respondent No. 2.

Since the Counsel for the Petitioner failed to comply with the above direction, Office Report on default was listed before the Hon'ble Judge-in-Chambers on 30.07.2012 when the following order was passed:

"Learned counsel for the petitioner submits that the Affidavit of Service filed by him is sufficient and the Office Report dated 02.05.2012 treating it as insufficient proof of service, is not correct.

He is directed to assail the Office Report stating the reasons as to why he insists that he has made adequate service and is in conformity with the Supreme Court Rules, which is not accepted by the Registry.

List next week".

It is submitted that in pursuance of the order quoted above, Counsel for the Petitioner has filed an Application for Clarification, in support of affidavit of service stating that the counsel has made adequate service on Respondent Nos. 4 and 5 and the same is in conformity with the Supreme Court Rules. The said application was registered as Criminal Miscellaneous Petition No. 18735 of 2012 and was listed before the Hon'ble Judge-in-Chambers on 4th September, 2012 when His Lordship was pleased to pass the following Order:

"List Crl.M.P.No. 18735 of 2012 before the regular bench".

Following the aforesaid order, the matter above-mentioned was further listed before the Hon'ble Court on 25.2.2013 and lastly listed on 1st April, 2013, when the Court was pleased to pass the following order:

"Put up after two weeks".

It is lastly submitted that Mr. Saurabh Trivedi, Advocate for Respondent No. 6 has on 13th June, 2013 filed Counter Affidavit. Copy of the same has been included in the Special Leave Petition Paper Books.

Service of Show cause Notice (except on Respondent Nos. 2, 4 and 5) is complete.

The application above mentioned is listed before the Hon'ble Court with this office report.

DATED this the 27th day of September, 2013.

ASSISTANT REGISTRAR

COPY TO:

1. Mr. T.V. George, Advocate
2. Mr. Ashok Kumar Sharma, Advocate
3. Mr. Saurabh Trivedi, Advocate

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ASSISTANT REGISTRAR