

ITEM NO.2

COURT NO.2

SECTION XI

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). 10866-10867/2010

M.SIDDIQ (D) THR. LR. MAULANA ASHHAD RSH

Appellant(s)

VERSUS

MAHANT SURESH DAS & ORS.ETC.ETC.

Respondent(s)

(office report for direction)

Date : 10/08/2015 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE T.S. THAKUR
HON'BLE MR. JUSTICE V. GOPALA GOWDA
HON'BLE MRS. JUSTICE R. BANUMATHI

For Appellant(s) Mr. S.P.Singh, Sr. Adv.
Mr. Mohd. Irshad Hanif, Adv.
Mr. N.A.Usmani, Adv.

For Respondent(s) Md. Shahid Anwar, Adv.

Mr. Amit Pawan, Adv.

Mr. Anish Kumar Gupta, Adv.
Mr. Brajesh Kumar, Adv.

Mr. Ashok K. Srivastava, Adv.

Mr. Maninder Singh, ASG,
MS. V.Mohana, Sr. Adv.
Mr. Abhinav, Adv.
MS. Sushma Suri, Adv.

Mr. Vivek Tankha, Sr. Adv.
MS. Sangeeta Mandal, Adv.
MS. Swati Sinha, Adv.
Mr. Shantaanu Bansal, Adv.

Mr. B. Krishna Prasad, Adv.

Mr. Barun Kuamr Sinha, Adv.
MS. Pratibha Sinha, Adv.
Mr. Rakesh Ranjan, Adv.
Mr. B. K. Satija, Adv.

Mr. Dharmendra Kumar Sinha,Adv.

Dr. Rajeev Dhawan, Sr. Adv.

Mr. H.Ahmadi, Sr. Adv.

Mr. M. R. Shamshad,Adv.

Mr. C.S.Vaidyanathan, Sr. Adv.

Mr. Madan Mohan Pandey, Sr. Adv.

Mr. S.S.Shamshery, Adv.

Mr. Vikramjit Banerjee, Adv.

Mr. P. V. Yogeswaran,Adv.

Mr. R. C. Gubrele,Adv.

Mr. Shakil Ahmed Syed,Adv.

Mr. Anoop G.Chaudhary, Sr. Adv.

MS. June Chaudhary, adv.

Mr. Mohammad Tayyab, adv.

Mr. Shakil Ahmad Syed, Adv.

Mr. Mohd. Parvez Dabas, adv.

Mr. Uzmi Jameel Husain, Adv.

Mr.Milan Laskar, Adv.

Mr. Syed Shahid Hussain Rizvi,Adv.

Mr. Mukesh Verma, Adv.

Mr. Pawan Kumar Shukla, Adv.

Mr. Vivek Vishnoi, Adv.

Mr. Yash Pal Dhingra,Adv.

M/s Fox Mandal & Co.,Adv.

Ms. Manjusha Wadhwa,Adv.

Ms. Pratibha Jain,Adv.

UPON hearing the counsel the Court made the following
O R D E R

The Observers have submitted a report dated 05.07.2015
which inter alia state as under:

".....As stated in several earlier reports,
the tent covering fan over the Make Shift Structure
has been damaged to a great extent and it requires
immediate replacement. The Authorised Person has

moved the Central Government for seeking permission from the Hon'ble Supreme Court for permission to replace the same. We are waiting for necessary orders in this regard....."

Learned counsel for the parties submit that in the light of the report according to which the tent covering the make-shift structure has been damaged and requires immediate replacement, this Court could on the analogy of previous Order dated 07.03.2014 permit the authorised person/Commissioner, Faizabad Division, Faizabad, U.P. to replace the old and worn out tarpaulin sheet, jute matting, bamboo, polythene sheet and ropes over the makeshift structure by new ones of the same size and quality and exactly in the same manner as they were previously placed. The process of replacement of old cover by the new could be undertaken and completed under the supervision of the two Observers who have been visiting the site. It is further submitted by learned counsel for the respondent that this Court had by Order dated 07.03.2014 also permitted the authorised officer to cover the polythene sheet with six inches of soil in the presence of the Observers which part could also be permitted once more.

In that view and keeping in view the joint prayer made at the Bar learned counsel for the parties we see no reason why a direction in terms of what was stated in our Order 07.03.2014 referred to above should not be issued. We accordingly permit the authorised officer/Commissioner Faizabad Division, Faizabad, U.P.

to replace the old and worn out tarpaulin sheet, jute matting bamboo, polythene sheet and ropes over the makeshift structure by new ones of the same size and quality and exactly in the same manner as they were previously placed. We also permit the authorised officer to cover the polythene sheet with six inches of soil. Needful shall be done in the presence of the Observers.

Mr. C.S.Vaidyanathan, learned senior counsel appearing for the appellants in C.A. Nos. 4768-4771 of 2011 points out that although there was a direction issued by this Court on 09.05.2011 asking the Registry to provide to the parties CDs containing electronic copies of the digital record summoned from the High Court, the needful has not been done so far. He prays for a direction to the Registry to comply with the said order. We see no reason to decline that prayer. The Registry shall take steps to provide to the parties CDs containing electronic copies of the digital record summoned from the High Court.

Dr. Rajeev Dhawan, learned senior counsel submitted that Mr. T.M.Khan one of the observers on the date of his appointment was working as Chairman, Permanent Lok Adalat, Varanasi who has now demitted that office in which case this Court may have to make a substitute arrangement. We do not for the present have any application before us seeking any substitute appointment in place of Mr. T.M.Khan. We are also not clear whether Mr. Khan would like to continue as Observer given an option to do so. Mr. Maninder Singh, learned ASG appearing for UOI offered to take

instructions from the authorised officer if necessary and make a suitable application in this regard. We permit him to do so within six weeks.

It is pointed out by learned counsel for the parties that record relevant to the hearing of these appeals is voluminous comprising documents in several languages including Persian, Sanskrit, Arabic, Gurumukhi, Urdu and Hindi. It was submitted that translation of these documents has not been very satisfactory and may itself require to be verified and corrected at some stage. It is also urged that lest the hearing of the appeals gets delayed by any deficiency in the compilation of the record, it would be proper if appropriate directions are issued to all concerned to file their compilations of the record in suitable numbers.

It is not in our view possible for us to issue any direction for the present in regard to the compilation of the record and the manner in which it should be done. The proper course appears to be to direct the learned counsel for the parties to appear before the Registrar and to work out a satisfactory and agreeable method by which documents may be translated, collated, compiled and filed by the parties concerned. It is only after this process is completed that the appeals can be listed for final hearing. Heard learned counsel for the parties to do the needful in that direction.

(Shashi Sareen)
AR-cum-PS

(Veena Khara)
Court Master