

ITEM NO.301

COURT NO.1

SECTION III-A

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

Civil Appeal Nos.10866-10867/2010

M.SIDDIQ (D) THR. LRS.

Appellant(s)

VERSUS

MAHANT SURESH DAS AND ORS. ETC. & ORS.

Respondent(s)

(With appln.(s) for intervention, directions, impleadment, for exemption from filing O.T., intervention/impleadment, clarification/direction, appropriate orders/directions, seeking settlement proposal amendment, permission to file additional documents, c/delay in filing substitution, impleading party, substitution and exemption from filing death certificate)

WITH C.A. Nos.4768-4771/2011 (III-A)

(With appln.(s) for intervention and permission to appear and argue in person)

C.A. No.2636/2011 (III-A)

C.A. No.821/2011 (III-A)

C.A. No.4739/2011 (III-A)

C.A. Nos.4905-4908/2011 (III-A)

C.A. Nos.2215/2011 (III-A)

(With appln.(s) for substitution, c/delay in filing substitution and exemption from filing O.T.)

C.A. No.4740/2011 (III-A)

(With appln.(s) for intervention/impleadment)

C.A. No.2894/2011 (III-A)

(With appln.(s) for substitution, c/delay in filing substitution and exemption from filing O.T.)

C.A. No.6965/2011 (III-A)

C.A. No.4192/2011 (III-A)

(With appln.(s) for directions)

C.A. No.5498/2011 (III-A)

C.A. No.7226/2011 (III-A)

(With appln.(s) for intervention, substitution, c/delay in filing substitution and exemption from filing O.T.)

C.A. No.8096/2011 (III-A)

(With appln.(s) for clarification/direction)

Diary No.14765/2017 (II)

(With appln.(s) for c/delay in filing, exemption from filing O.T. and c/delay in refileing)

Date : 14-03-2018 These matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE ASHOK BHUSHAN
HON'BLE MR. JUSTICE S. ABDUL NAZEER

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CA 2894/11 &
CA 7226/11

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CA 6965/11

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CA 4192/11 &
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UPON hearing the counsel the Court made the following
O R D E R

I.A. Nos. 27-28/2012, 5827/2017, 35-36 and 37-38/2017, 92432/2017 in I.A. No. 35/2017, 43415/2017, 70313/2017, 127588/2017, 130831/2017, 131186/2017, 11602/2018, 14101/2018, 17914 and 18939/2018 in I.A. No. 70313/2017, I.A. 33701/2018, 131419 and 131424/2017, 129876/2017 and 10/2017

These interlocutory applications have been filed for intervention, for impleadment, for filing additional documents and for rendering assistance.

Learned counsel for the appellants, as well as, the respondents in all the appeals have raised objections for such intervention/ impleadment/ filing additional documents/ seeking permission to render assistance.

Having heard learned counsel for the parties, we are of the considered opinion that these interlocutory applications do not merit any consideration and they are accordingly rejected. We further direct the Registry not to entertain any interlocutory applications for intervention/ impleadment/ for filing any book or additional documents/ for seeking permission to give assistance in these appeals from any third party. Needless to say, if the parties to the present appeals file them, the Registry shall accept and place the same before the Court.

I.A. nos. 1-2/2016 and 33-34/2016

It is submitted by Mr. Subramaniam Swamy, the applicant-in-person that he had preferred a writ petition being W.P.(C) no. 105/2016 and withdrawn the same to file an application for intervention. It is further submitted by him that the Court after hearing the matter, had vide order dated 23.12.2016 permitted him to convert the writ petition to an

application for intervention. As we are not inclined to permit the intervention application, the writ petition filed by the applicant shall stand revived and it shall be dealt with by the appropriate Bench in accordance with law.

The interlocutory applications are accordingly disposed of.

I.A. No. 131189/2017

Having heard learned counsel for the applicant, who is the respondent no. 12 in Civil Appeal nos. 10866-10867/2010, is seeking some interim arrangement on the ground that certain factual aspects have not been taken into consideration by the High Court. We are not inclined to entertain the same. However, the said applicant can put forth his case when the main appeals are argued.

With the aforesaid liberty, the interlocutory application is disposed of.

Civil Appeal Nos. 10866-10867/2010 & connected appeals

All the interlocutory applications filed in the present appeals for taking additional documents on record, for setting aside abatement, for condonation of delay, for substitution, for exemption from filing official translation stand allowed. All applications are allowed as they have been filed by the parties, and there has been no opposition from the competing parties.

It is submitted by Mr. Ejaz Maqbool, learned counsel for the appellants in Civil Appeal Nos. 10866-10867/2010 that the respondent-State has already handed over a soft copy of the entire record in PDF format. Let the same in WORD format

be supplied to all the parties, within two weeks hence.

Mr. Ejaz Maqbool, learned counsel would submit that in case any part of the books that have been exhibited he would like to press into service, he shall point out the same to the learned counsel for the State, who, in turn, shall get it translated and provide the translations to him. Mr. Tushar Mehta, learned ASG has no objection.

On 5.12.2017, Dr. Rajiv Dhawan, learned senior counsel appearing for the appellants had advanced a submission that the matter deserves to be referred to a larger Bench in view of the decision rendered by the Constitution Bench of this Court in Dr. M. Ismail Faruqui & Ors. vs. Union of India & Ors., (1994) 6 SCC 360. On that occasion, he had drawn our attention to paragraph 82 of the said verdict. On behalf of the respondents opposing the submission of Dr. Dhawan, it was contended that the decision in Dr. M. Ismail Faruqui (supra) being a verdict of the Constitution Bench, is binding on this Court and, therefore, if the occasion so arises and the context so requires, the matter may be considered at that stage. Thereafter, the matter proceeded for regularizing the pleadings. As noted earlier, the pleadings are complete from all spectrums.

After due deliberation, we have thought it appropriate that we should hear Dr. Dhawan, learned senior counsel appearing in one of the appeals on behalf of the appellants, whether the judgment in Dr. M. Ismail Faruqui (supra) requires reconsideration. Mr. C.S. Vaidyanathan, learned senior counsel appearing for some of the appellants in Civil Appeal nos. 4768-4771/2011 and for some of the respondents in Civil Appeal nos. 10866-10867/2010, would contend that it is requisite that the said controversy should

be put to an end. We must immediately make it clear that our addressing the said issue shall singularly relate to whether this Bench should think of that the dictum in Dr. M. Ismail Faruqui (supra) requires reconsideration and in that event, we may pass appropriate orders for placing the matter before a five-Judge Bench for consideration of the said judgment.

We have heard Dr. Dhawan in part with regard to the said aspect. He will develop the propositions on the next date of hearing.

Let the matter be listed at 2.00 p.m. on 23.3.2018.

Diary No.14765/2017

Let this petition be de-tagged and be listed before the appropriate Bench after six weeks.

(Deepak Guglani)
Court Master

(H.S. Parasher)
Assistant Registrar