

-&ITEM NO. 103
and 121

COURT NO.7

SECTION XII

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

CIVIL APPEAL NO(s). 1417 OF 2001

S. Rajeswari

Appellant (s)

VERSUS

S.N. Kulasekaran & Ors.

Respondent(s)

(with appl(s) for permission to file additional documents and with office report)

With

IA Nos. 3, 4 and 5 (for impleadment and prosecuting the appellant under Section 340
Cr.P.C. For filing the appeal and permission to file additional documents)

With

Contempt Petition (C) No.351/2002 in CA No.1417/2001

(With appln(s) for prosecuting the appellant under Sec. 340 CrPC for filing this appeal)

Date: 04/10/2005 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ASHOK BHAN

HON'BLE MR. JUSTICE ALTAMAS KABIR

For Appellant(s)
& Respondent in
Contempt Pet.

Mr. Ajit Kumar Sinha, Adv.

In Cont. Pet.

Ms. S. Janani, Adv.

For Respondent(s) Mr. C. Paramasivam, Adv.

Mr. R. Kovilan, Adv.

Mr. P. Ramesh, Adv. for

Mr. Rakesh K. Sharma, Adv.

For R-1

Mr. G. Sivabalamurugan, Adv.

Mr. Muthudurai, Adv.

Mr.L.K. Pandey, Adv.

UPON hearing counsel the Court made the following

O R D E R

S. Rajeswari who had described herself as the widow of Shanmugam

the objector-petitioner in the execution decree, has filed the present appeal.

During the pendency of the appeal on 4th of November, 2003 counsel for the respondents addressed a communication to the Registrar of this Court stating therein that S. Rajeswari had died on 7th February, 2003 and; that since no application was filed to bring on record her legal representatives, the appeal had abated. Subsequently the respondents filed IA No.5/2004 for permission to file additional documents and with that application placed on record an order dated 17th June, 2004 passed by the High Court of Madras in a writ petition being WP No. 12987/2000 [S. Rajeswari v. District Collector & Anr.] filed by S. Rajeswari, the appellant herein. Writ Petition was dismissed by the High Court on the ground that S. Rajeswari had died on 7th of February, 2003 and her legal representatives were not interested in pursuing the matter further. In response to the application, appellant has handed over the copy of reply, which is taken on record, asserting therein that in fact S. Rajeswari is alive and she is the wife of Shanmuga Mudaliar, and not the wife of Subhas Chander Bose, who had filed the special leave petition.

Respondents filed IA No. 6/2005 seeking early hearing of the appeal.

With the said application the respondents have attached the death certificate in which S. Rajeswari is shown to be the wife Subhas Chander Bose. Appellant has also filed an affidavit in which the age of S. Rajeswari is stated to be 80 years. Another application has been filed by the respondents under Section 340 of the Code of Criminal Procedure for prosecuting S. Rajeswari on the ground that she preferred the appeal by impersonation. Counsel for the appellant vehemently contested the assertions made by the counsel for the respondents.

Since there is a dispute regarding the true identity of S. Rajeswari, the appellant herein, as well as the fact of her being alive, we deem it appropriate to direct an inquiry to be conducted by a Judicial Officer of the rank of District Judge to inquire into the real identity of S. Rajeswari, her age, particulars of residence, date of birth/death, etc. The original papers pertaining to this case be transmitted forthwith in a sealed cover to the Principal Sessions Judge, Chennai, who may either conduct the inquiry himself or assign it to any other Additional Sessions Judge at Chennai. Report of the inquiry be sent to this Court within three months from the date of the receipt of the communication of this Court. Office is directed to retain the zerox copies of the case file with it.

Parties through their counsel are directed to appear before the Principal Sessions Judge, Chennai on 24th of October, 2005 for further directions.

To come up after the report referred to above is received.

(J.S. Rawat)
Court Master

(Kanwal Singh)
Court Master