

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 3695 OF 2007

SRI ATIBAL SINGH & ORS. ETC.

... Appellants

VERSUS

PRAMOD SHANKAR UPADHYAY & ORS. ETC.

... Respondents

WITH

CIVIL APPEAL NOS. 3704, 3705, 3706, 3688, 3686, 3685 & 3687 OF 2007
AND 3115-3127 OF 2012

AND

CIVIL APPEAL NOS. 6569, 6570, 6571-6572, 6573, 6574, 6576, 6577,
6578-6579, 6575, 6580, 6581, 6582, 6583, 6584 AND 6585 OF 2019
(Arising out of SLP (C) Nos.28395, 28917,28535-28536 & 33760 of
2011, 3435 of 2012, 479, 13962 of 2016, 20618-20619 of 2017, 23856,
24083, 20259, 24084 & 21666 & 24071 of 2018 and 4574 of 2019)

AND

CIVIL APPEAL NO. _____ OF 2019 @ SLP (C) NO.12631/2018
@ MA NO.1790 OF 2018 IN SLP (C) NO.12631 OF 2018

AND

CONTEMPT PETITION (C) NOS.1467/2018 IN SLP (C) NO.12631/2018,
2096/2018 IN SLP (C) NO.21666/2018 AND 430/2019 IN SLP (C)
NO.20259/2018

O R D E R

Applications for impleadment are allowed to the extent of
intervention.

Leave granted in all the special leave petitions.

Heard learned counsel for the parties.

M.A. filed for recall of the order dated 4.5.2018 is allowed. Order is recalled as other special leave petitions are pending. All the special leave petitions are required to be heard together. The special leave petition is taken on Board.

A peculiar situation has arisen in this case. The decision which has been overruled by the High Court was affirmed by this Court in Diploma Engineers Sangh v. State of U.P. [(2007) 13 SCC 300]. It was brought to the notice of the High Court that a special leave petition was pending consideration before this Court and judgment was reserved. Notwithstanding the said fact, the High Court has overruled the decision which was affirmed by this Court later on. Judicial propriety required that the High Court should have stayed its hands when the matter was heard and reserved by this Court and the High Court should not have proceeded with the hearing of the matter.

Apart from that, we find that certain reliefs have been granted by the High Court which were not even prayed for in the writ petition. The High Court ought to have confined consideration to the reliefs prayed in the writ petition and also considering the subject matter and parties before it.

We, therefore, set aside the impugned judgment and order and remit the matter to the High Court. We request the High Court to decide the matter afresh within six months after

hearing the parties afresh.

It is open to the parties to approach the Chief Justice for clubbing all the similar matters pending at Allahabad as well as before the Bench at Lucknow. As we have set aside the impugned judgment, the orders passed by the High Court following the same in other matters are also set aside. Let all the matters be decided by the High Court afresh.

All the appeals are allowed. Impugned judgment and orders are set aside. It is open to the incumbents who have filed contempt petitions to question the orders passed in accordance with law, in case any cause survives and they are still aggrieved by them before the appropriate forum. The contempt petitions are accordingly disposed of including the pending applications. No costs.

....., J.
(Arun Mishra)

....., J.
(M.R. Shah)

....., J.
(B.R. Gavai)

New Delhi;
August 21, 2019

ITEM NO.102

COURT NO.4

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 No(s). 3695/2007

SRI ATIBAL SINGH & ORS.

Appellant(s)

VERSUS

PRAMOD SHANKAR UPADHYAY & ORS.

Respondent(s)

(IA No. 9/2013 - CLARIFICATION/DIRECTION IA No. 166980/2018 - CLARIFICATION/DIRECTION IA No. 97761/2018 - CLARIFICATION/DIRECTION IA No. 3/2006 - IMPLEADMENT FILED BY H.S. PARIHAR IA No. 10/2016 - IMPLEADMENT FILED BY VARINDER KR. SHARMA IA No. 12/2016 - IMPLEADMENT FILED BY VARINDER KR. SHARMA IA No. 11/2016 - IMPLEADMENT FILED BY VARINDER KR. SHARMA IA No. 166981/2018 - STAY APPLICATION)

WITH

C.A. No. 3704/2007 (III-A)
(FOR FOR IMPLEADMENT ON IA 3/2006 IA No. 3/2006 - IMPLEADMENT)
C.A. No. 3706/2007 (III-A)
C.A. No. 3115-3127/2012 (III-A)
(FOR STAY APPLICATION ON IA 101128/2018 IA No. 101128/2018 - STAY APPLICATION)
C.A. No. 3705/2007 (III-A)
(FOR STAY APPLICATION ON IA 101121/2018 IA No. 101121/2018 - STAY APPLICATION)
C.A. No. 3688/2007 (III-A)
(FOR Application for directions ON IA 2/2014 IA No. 2/2014 - Application for directions)
C.A. No. 3686/2007 (III-A)
C.A. No. 3685/2007 (III-A)
C.A. No. 3687/2007 (III-A)
SLP(C) No. 28395/2011 (XI)
SLP(C) No. 28917/2011 (XI)
SLP(C) No. 28535-28536/2011 (XI)
(CONNECTED WITH CA NO. 3695/2007)
SLP(C) No. 33760/2011 (XI)
(FOR IMPLEADMENT I.A.NO.6/11) IN SC 33760/11)
IA No. 113290/2017 - APPROPRIATE ORDERS/DIRECTIONS)
SLP(C) No. 3435/2012 (XI)
SLP(C) No. 23856/2018 (XI)
SLP(C) No. 479/2016 (XI)
(FOR VACATING STAY ON IA 5/2016 FOR INTERVENTION APPLICATION ON IA 6/2016 FOR EXEMPTION FROM FILING O.T. ON IA 7/2016 FOR ON IA 8/2016 FOR INTERVENTION APPLICATION ON IA 123317/2017 IA No. 7/2016 - EXEMPTION FROM FILING O.T. IA No. 6/2016 - INTERVENTION APPLICATION IA No. 123317/2017 - INTERVENTION APPLICATION IA No.

5/2016 - VACATING STAY IA No. 4/2016 - VACATING STAY)
 SLP(C) No. 13962/2016 (XI)
 (FOR ON IA 64004/2017 FOR VACATING STAY ON IA 85093/2017
 IA No. 85093/2017 - VACATING STAY)
 SLP(C) No. 20618-20619/2017 (XI)
 MA 1790/2018 in SLP(C) No. 12631/2018 (XI)
 (FOR ADMISSION and IA No.77351/2018-INTERVENTION/IMPLEADMENT and IA
 No.77357/2018-RECALLING THE COURTS ORDER IA No. 77351/2018 -
 INTERVENTION/IMPLEADMENT IA No. 77357/2018 - RECALLING THE COURTS
 ORDER)
 SLP(C) No. 24083/2018 (XI)
 SLP(C) No. 20259/2018 (XI)
 (AS PER ROP DATED 8.7.2019 MATTER IS TO UPDATED UNDER FIXED DATED
 FOR 22.8.2019 IA No. 105405/2018 - EXEMPTION FROM FILING C/C OF THE
 IMPUGNED JUDGMENT IA No. 105409/2018 - EXEMPTION FROM FILING O.T.
 IA No. 13127/2019 - EXEMPTION FROM FILING O.T. IA No. 116108/2018 -
 STAY APPLICATION IA No. 13125/2019 - STAY APPLICATION)
 SLP(C) No. 24084/2018 (XI)
 SLP(C) No. 21666/2018 (XI)
 CONMT.PET.(C) No. 1467/2018 in SLP(C) No. 12631/2018 (XI)
 (FOR ADMISSION TO BE LISTED ALONGWITH M.A. 1790 OF 2018 IA No.
 144921/2018 - INTERVENTION/IMPLEADMENT)
 SLP(C) No. 24071/2018 (XI)
 SLP(C) No. 4574/2019 (XI)
 (IA No. 125501/2018 - EXEMPTION FROM FILING C/C OF THE IMPUGNED
 JUDGMENT IA No. 125502/2018 - EXEMPTION FROM FILING O.T. IA No.
 21097/2019 - EXEMPTION FROM FILING O.T. IA No. 21095/2019 - STAY
 APPLICATION)
 CONMT.PET.(C) No. 2096/2018 in SLP(C) No. 21666/2018 (XI)
 (FOR ADMISSION and IA No.151952/2018-EXEMPTION FROM FILING O.T.)
 CONMT.PET.(C) No. 430/2019 in SLP(C) No. 20259/2018 (XI)
 (FOR ADMISSION and IA No.32267/2019-EXEMPTION FROM FILING O.T.)

Date : 21-08-2019 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE ARUN MISHRA
 HON'BLE MR. JUSTICE M.R. SHAH
 HON'BLE MR. JUSTICE B.R. GAVAI

For Appellant(s) Mr. Anil K. Jha, AOR
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 Mr. M. C. Dhingra, AOR
 Appellant-in-person, AOR

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 Ms. Komal M., Adv.
 Mr. Saurabh Agrawal, Adv.
 Mr. Abhijit Sengupta, AOR

Ms. Preetika Dwivedi, AOR

Mr. Purushaindra Kaurav, Sr. Adv.

Mr. B.N. Dubey, Adv.
Mr. Satyajeet Kumar, AOR

Mr. Varun Thakur, Adv.
Mr. Brajesh Pandey, Adv.
Mr. S. Saran, Adv.
Mr. Varinder Kumar Sharma, AOR

Mr. Yash Pal Dhingra, AOR
Ms. Preeti Singh, AOR
Mr. Vijay Kumar, AOR

Mr. Ajay Kumar Mishra, (AAG) Sr. Adv.
Mr. Ardhendumauli Kumar Prasad, AOR
Mr. Gaurav Agarwal, Adv.
Ms. Priyanka, Adv.
Ms. Lhingneivah, Adv.

Petitioner-in-person

Ms. Mahalakshmi Pavani, Sr. Adv.
Mr. G. Balaji, AOR
Ms. S. Vijayakumar, Adv.
Mr. Divyanshu, Adv.

For Respondent(s)

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Mr. Rupesh Kumar, Adv.
Ms. Pankhuri Shrivastava, Adv.
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Ms. Deepika Mishra, Adv.
Mr. Bimlesh Pandey, Adv.

Mr. Shashank Shekhar Singh, AOR
Mr. Anil Kumar Jha, AOR
Mr. V. N. Raghupathy, AOR
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Mr. Kamini Jaiswal, AOR

Ms. Kaveri Krishna Jha, Adv.
Mr. Hitesh Kumar Sharma, Adv.
Ms. Mamta Upadhyay, Adv.

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

Applications for impleadment are allowed to the extent of
intervention.

Leave granted in all the special leave petitions.

Heard learned counsel for the parties.

M.A. filed for recall of the order dated 4.5.2018 is allowed. Order is recalled as other special leave petitions are pending. All the special leave petitions are required to be heard together. The special leave petition is taken on Board.

All the appeals are allowed in terms of the signed order. Impugned judgment and orders are set aside. It is open to the incumbents who have filed contempt petitions to question the orders passed in accordance with law, in case any cause survives and they are still aggrieved by them before the appropriate forum. The contempt petitions are accordingly disposed of including the pending applications in terms of the signed order. No costs.

(GULSHAN KUMAR ARORA)
COURT MASTER

(JAGDISH CHANDER)
COURT MASTER

(Signed order is placed on the file)