

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2024
(Arising out of SLP(C) No.15191 of 2022)

DUSHYANT MAINALI

Appellant(s)

VERSUS

DIWAN SINGH BORA & ANR.

Respondent(s)

O R D E R

1. Leave granted.

2. This appeal challenges certain adverse observations made by the learned Single Judge of the High Court of Uttarakhand at Nainital against the appellant.

3. The appellant is a lawyer by profession. He was neither appearing for any party in the matter nor was he indirectly connected.

4. This Court, in the case of same learned Judge of the High Court on various occasions, including in the reported judgment in the case of Neeraj Garg Vs. Sarita Rani and Ors. reported in 2021(9) SCC 92 and recently in C.A. Nos. 11043-11044 of 2024 titled as "Siddhartha Singh Vs. Assistant

Collector First Class/Sub Divisional Magistrate & Ors., vide order dated 24.09.2024, have observed with disapproval the proclivity of the said learned Judge of the High Court in making remarks against the advocates.

5. There is no necessity to reiterate that even the Courts, including a highest court of the Country, are bound by principle of natural justice. Nobody can be condemned unheard.

6. We are of the considered view that the approach of the High Court in making the observations against the appellant without giving him any opportunity of being heard is totally unsustainable in law.

7. In that view of the matter, the following portion of the impugned judgment and order shall stand deleted/expunged from the records:

"All these statements are per se apparently false because there is no prior pending revision, than the one at hand which has been instituted and there is no reason to disbelieve the grounds taken by the revisionist in the delay condonation application of the Assurances extended by the counsel Mr. Dushyant Manali. This false assurance extended by counsel for the revisionist as per the opinion of this court is of the view is tentatively and

apparently true would amount to be a professional misconduct for which this Court in taking a suo moto cognizance and referring the matter to the bar council to draw an appropriate proceedings disciplinary against the counsel concerned for wrongful extension of information to the litigant due to which the revision had preferred the revision at a belated stage, when the revisionist faced the order passed by the executing court in pursuance to the impugned decree which has been put to challenge in the present revision. The Bar Council is directed to proceed strictly in accordance with the procedures governing with the disciplinary proceedings of the bar council as well as under the provisions of the Advocates Act. Having apparently considered the reasons which has been given in the delay condonation application, logically this Court is of the view that any litigant blindfoldedly relies upon the statement given by the counsel and he acts upon that and in all the circumstances, it is not necessary that the aid communication made by the counsel to the client has had to be in writing. In that eventuality, prima facie and so far as the revisionist is concerned individually, he cannot be held responsible for delayed filing of a revision when the revisionist counsel Mr. Dushyant Mainali has duped him by making a false statement, which was bonafidely believed by the revisionist. In that eventuality, this Court directs the Registrar General of this Court to refer the matter to the Bar Council of Uttarakhand to draw and appropriate disciplinary proceedings against the professional misconduct on part of Mr. Dushyant Mainali and to conduct and conclude the proceedings against him within a period of six months from today and report back to this Court of decision

taken.”

8. The appeal is allowed in the above terms.

9. Pending application(s), if any, stand(s) disposed of.

.....J
(B.R. GAVAI)

.....J
(K.V. VISWANATHAN)

New Delhi
November 25, 2024

ITEM NO.46

COURT NO.2

SECTION X

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

Petition(s) for Special Leave to Appeal (C) No(s). 15191/2022

[Arising out of impugned final judgment and order dated 20-06-2022 in CLR No. 22/2022 passed by the High Court of Uttarakhand at Nainital]

DUSHYANT MAINALI

Petitioner(s)

VERSUS

DIWAN SINGH BORA & ANR.

Respondent(s)

(IA No. 98239/2022 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No. 98242/2022 - EXEMPTION FROM FILING O.T.)

Date : 25-11-2024 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.R. GAVAI

HON'BLE MR. JUSTICE K.V. VISWANATHAN

For Petitioner(s)

Mr. Vinod Kumar Shukla, Adv.
Mr. Abhaya Nath Das, Adv.
Mr. Sugam Mishra, Adv.
Ms. Monica Goel, Adv.
Mr. Kishor Kumar Mishra, Adv.
Mr. Aditya Mishra, Adv.
Mrs. Barnali Basak, Adv.
Mr. Hukum Deo Prasad, Adv.
Mr. Satish Kumar, AOR

For Respondent(s)

Mr. Bankey Bihari, AOR

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

1. Leave granted.
2. The appeal is allowed in terms of the signed order.
3. Pending application(s), if any, stand(s) disposed of.

(DEEPAK SINGH)
ASTT. REGISTRAR-cum-PS

(POOJA SHARMA)
COURT MASTER (NSH)

[Signed order is placed on the file]