

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

SPECIAL LEAVE PETITION (CIVIL) Diary No(s).28661/2024

(Arising out of impugned final judgment and order dated 31-05-2024 in RP No.117/2023 and 13-03-2023 in WA No.47/2023 passed by the Gauhati High Court)

N. F RAILWAY VENDING AND CATERING
CONTRACTORS ASSOCIATION LUMDING DIVISION

Petitioner(s)

VERSUS

THE UNION OF INDIA & ORS.

Respondent(s)

(IA No.154146/2024-CONDONATION OF DELAY IN FILING and IA No.154143/2024-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.154140/2024-PERMISSION TO PLACE ADDITIONAL FACTS AND GROUNDS)

Date : 29-07-2024 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE DIPANKAR DATTA
HON'BLE MR. JUSTICE PRASHANT KUMAR MISHRA

For Petitioner(s) Mr. Rana Mukherjee, Sr. Adv.
Mr. S. Wasim A. Qadri, Sr. Adv.
Mr. Tamim Qadri, Adv.
Mr. Saeed Qadri, Adv.
Mr. Bhavna Kanpur, Adv.
Mr. Saahil Gupta, Adv.
Mr. Deepak Bhati, Adv.
Mr. Shivendra Singh, Adv.
Ms. Udit Singh, AOR

For Respondent(s)

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

1. Delay condoned.
2. *Prima facie*, we find little reason to agree with the view expressed by the coordinate Bench in S. Narahari v. S.R. Kumar¹. With respect, the coordinate Bench does not appear to have considered the principles flowing from Order XXIII Rule 1 of the

¹(2023) 7 SCC 740

Code of Civil Procedure, 1908. A party having withdrawn the proceedings before a competent Court and not having obtained leave of such Court to file a fresh proceeding ought not to be permitted to have a second bite at the cherry. However, the decision in *S. Narahari* (supra) having referred the matter to a larger Bench, we say no more at this stage.

3. Adjourned *sine die*.

4. Liberty is given to mention the Special Leave Petition for relisting after the larger Bench decides the question referred to it.

(VIJAY KUMAR)
COURT MASTER (SH)

(SUDHIR KUMAR SHARMA)
COURT MASTER (NSH)