
(2011) 06 UK CK 0063

In the Uttarakhand High Court

Case No : Special Appeal No. 85 of 2011

Awas Ayukta, U.P. Avas Avam Vikas Parishad and Another

APPELLANT

Vs

Mangal Singh Rawat and Others

RESPONDENT

Date of Decision : 13-06-2011

Acts Referred:

Citation : (2012) 1 UC 445 : (2011) 2 UD 18

Hon'ble Judges : Barin Ghosh, C.J.;Serves Kumar Gupta, J

Bench : Division Bench

Judgement

Barin Ghosh, C.J.—In order to defend the writ petition, Appellants had engaged Mr. K.S. Mehta as their advocate. On 4th March, 2011, when the writ petition was taken up for consideration in the revised list, Mr. K.S. Mehta did not appear. On 4th March, 2011, the writ petition was allowed without hearing the Appellants. Appellants then approached the writ court for recalling the order dated 4th March, 2011. While so approaching, Appellants engaged as their advocate Mr. Pankaj Purohit. While doing so, Appellants did not obtain No Objection from Mr. K.S. Mehta. On the records, Mr. K.S. Mehta was the one and the only advocate, who could represent the Appellants. Since the recalling application was not filed through Mr. K.S. Mehta, by the judgment and order under appeal, recall application has been rejected, holding that the same was not competent.

2. In order to ensure that the institution of the advocates do not suffer, the unwritten law is that when a client has engaged an advocate, while replacing him, it is required to have No Objection of the advocate, which ensures that whatever the client had promised to the advocate has been discharged.

3. That having not been done in the instant case, we are of the view that the order appealed against is not interferable.

4. We make it clear that it shall still be open to the Appellants to re-approach the writ court, seeking recalling of the order dated 4th March, 2011, only after

obtaining appropriate No Objection from Mr. K.S. Mehta. In the event Mr. K.S. Mehta refuses to give such No Objection, it shall be open to the Appellants to inform the writ court in that regard, whereupon it shall be open to the writ court, after noticing Mr. K.S. Mehta, whether to cancel the power granted in favour of Mr. K.S. Mehta, paving the way of the Appellants filing power in favour of some other advocate.

5. This disposes of the appeal.