
(2001) 11 AP CK 0044
In the Andhra Pradesh High Court
Case No : CA No. 507 of 2001

Government of Andhra Pradesh

APPELLANT

Vs

Official Liquidator, Marine and Communications Electronics
India Ltd.

RESPONDENT

Date of Decision : 21-11-2001

Acts Referred:

Citation : AIR 2002 AP 220 : (2002) 1 ALD 593 : (2002) 1 ALT 405

Hon'ble Judges : J. Chelameswar, J

Bench : Single Bench

Advocate : Government Pleader for Home, for the Appellant; M. Anil Kumar, for the Official Liquidator, for the Respondent

Judgement

1. Chelameswar, J.—Company Application No.219 of 2000 was dismissed by a learned single Judge of this Court on 8-8-2000. In fact, the matter was taken up for hearing on an earlier occasion on 20-7-2000. There was no representation on behalf of the applicant on that day. Therefore, the learned Judge directed that the matter be listed again on 8-8-2000 under the caption "for dismissal." The applicant did not take advantage of the generosity of the learned Judge.

2. The defaulter filed an application to set aside the order dated 8-8-2000 along with an application CA No.134 of 2001 to condone the delay of 160 days in filing the abovementioned application to set aside the "default order".

3. This time the matter was listed before me. Not satisfied with the explanation offered by the applicant, with regard to the delay I dismissed the CA No.134 of 2001.

4. The applicants exercised their right of an intra court appeal.

5. A Division Bench by its order dated 28th June, 2001 was pleased to allow the appeal by a short order, which reads as follows:

"Having regard to the facts and circumstances of the case, we are of the

considered view that sufficient reasons have been shown for " the delay in filing the petition to restore CA No.219 of 2000 and it is a fit case where the delay has to be condoned.

The OSA is accordingly allowed and the learned single Judge is directed to take up the company application and pass appropriate orders."

6. I am bound by the result of the appeal. If the appellate Court had left the matter at correcting the "error committed" the normal legal consequences would have followed. Unfortunately the Division Bench thought it fit to "direct" the single Judge by reminding him of the future course of legal action.

7. The language employed by the Division Bench, in my view, does not belong to the judicial pronouncements while dealing with intra court appeals.

8. I am of the opinion that no argument or authority is required, or exhibition of learning is called for, to state that Judges of the High Court who happen to sit single, and hear the matters assigned to them by the Hon"ble Chief Justice are not subordinate to the members of the Division Benches.

9. Since the High Court is a Court of record and every expression employed in judicial orders would remain on the permanent record of the Court, I do not want either the contemporary society or the posterity to believe otherwise.

10. Over a period of time such incidents would result in the accretion of dangerous power. I am only tempted to quote Frankfurter, J:

"The accretion of dangerous power does not come in a day. It does come, however slowly, from the generative force of unchecked disregard of the restriction that fence in even the most disinterested assertion of authority,"

Youngstown v. Charles Sawyer, 343 US 579.

11. In the circumstances I recuse myself from the matter and direct the registry to place the papers before the Hon"ble the Chief Justice for appropriate orders.