
(1984) 04 RAJ CK 0022

In the Rajasthan High Court

Case No : Civil Special (Writ) Appeal No. 190 of 1983

Lallu Lal

APPELLANT

Vs

District and Sessions Judge, Jaipur and Others

RESPONDENT

Date of Decision : 25-04-1984

Acts Referred:

Constitution of India, 1950 — Article 19, 226

Legal Practitioners Act, 1879 — Section 36

Rajasthan High Court Ordinance, 1949 — Section 18

Citation : AIR 1985 Raj 51 : (1984) RLW 748 : (1984) WLN 180

Hon'ble Judges : G.M. Lodha, J;G.K. Sharma, J

Bench : Division Bench

Advocate : R.S. Purohit and Chhabilal, for the Appellant;

Final Decision : Dismissed

Judgement

G.M. Lodha, J.—Lallutal, the appellant, has filed this special appeal u/s 18 of the Rajasthan High Court Ordinance against the judgment of the learned single Judge who dismissed the writ petition of the appellant in limine.

2. The appellant has made prayer that this Court should issue a writ or direction, allow the writ petition and quash and set aside the orders dated 9-4-70, 3-4-76, 28-5-81, 4-6-82, 25-1-82, 8-7-82, and 19-11-82 passed by the District Judge, Jaipur District Jaipur declaring the petitioner-appellant as Tout and to remove the petitioner's name from the list of touts as well as from notice Board of the Courts and declare Section 36 of the Legal Practitioners Act as ultra vires, arbitrary and illegal and allow the appellant to work as Munshi.

3. The relief and prayer clause itself shows that the petitioner has jumbled up seven orders passed by the learned District Judge and, the writ petition, itself, therefore, clearly suffers from misjoinder of various causes of action and, that too, relating to a period of 12 years back, in fact, it is clear that the writ was not maintainable on this ground alone.

4. A brief re"sume" of the history of the case further shows that the facts, which the petitioner wants to get examined by this Court, relate back from the year 1969, When an inquiry on the allegation that the petitioner is a tout was commenced. There are several allegations against one Magistrate, Shri Galoondia and, the entire arguments which were made before us were surcharged with the theme of malice which Shri Galoondia Magistrate had against the appellant-Lalloolal on account of which the impugned orders were passed, in the inquiry but, curiously enough, Shri Galoondia-Magistrate has not been made a party in the writ petition. Obviously, therefore, the writ petition, itself, suffers from serious defect of non-joinder of the necessary party also.

5. In our opinion, this writ petition deserves to be dismissed for misjoinder of causes of action, non-joinder of necessary parties and, delay and laches.

6. Even on merits, we find that the dismissal of the writ petition by the learned Single Judge was wholly justified, the inquiry regarding toutism was made properly and due opportunity was afforded to the appellant-Lalloolal and, that resulted in an order declaring the appellant-Lalloolal as a tout as early as in the year 1970. Obviously, as per the non-mention of such facts in the writ petition, that order was never challenged and it is now too late in the year 1984 to challenge the order of declaring him as tout.

7. Subsequent effort of the appellant to get his name removed from the list of touts proved futile for just and proper grounds. It is obvious, the petitioner-appellant is insisting on his misconceived imaginary right to function in the Courts as a Clerk which his counsel has termed as a "fundamental right" without appreciating that the right to become a clerk or, to register him as a clerk is subject to and is to be regulated by the proper law. A person who has been declared as a tout cannot insist that he has got fundamental right to be registered as Clerk of an Advocate and, go inside the Court-rooms and involve himself in such practice indirectly insist for functioning in the manner for which he has been prohibited.

8. During the course of arguments, it was submitted that no one can be restricted or prohibited from going inside the Courts and, therefore, direction given in the year 1970 that his name may be listed in the list of touts and he is prohibited from functioning in the Courts, is against constitutional provisions. We regret that there is no fundamental right to insist that a citizen should be allowed to function as a tout. The prohibition contained in the order has amounted to deprive him from functioning as a tout and the restrictions with that end in view are permissible in law.

9. We, therefore, find that there is no substance in the writ petition which has been properly rejected by the learned single Judge.

10. The learned counsel also lastly submitted that the learned single Judge has rejected the writ petition by only one line order which is not permissible. Shri Purohit failed to show any law or precedents by which while rejecting the writ

petition, it is obligatory for a Court to pass a detailed speaking order. We, therefore, cannot entertain this objection also, more so because, the recent practice has been to reject the writ petition summarily by non-speaking orders and, that practice has not been shown to be against any established law or decision of the Apex Court.

11. We have also considered the written arguments submitted by the learned counsel for the appellant and we find that in View of the above findings of ours the appeal deserves to be dismissed and the verbal as well as written arguments dated the 22nd March, 1984 are devoid of any force.

12. The result of the above discussion is that this civil special appeal fails and is hereby dismissed.