

(2012) 05 AHC CK 0311
In the Allahabad High Court
Case No : Special Appeal No. 495 of 2007

Pooran Lal Sonkar

APPELLANT

Vs

Pooran Lal Sonkar, Father and Guardian of KM. Sunaina Devi
and Others

RESPONDENT

Date of Decision : 10-05-2012

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 151

Citation : (2012) 8 ADJ 581

Hon'ble Judges : S.P. Mehrotra, J;M. Dayal, J

Bench : Division Bench

Advocate : Rajesh Singh, for the Appellant; Rajesh Singh and CSC, for the Respondent

Judgement

1. It appears that Km. Sunaina Devi was a regular student of High School studying in Mahatma Jotir Rao Phule Vidya Ashram Higher Secondary School, Kara Dham, Tehsil Sirathu, District Kaushambi (hereinafter also referred to as the "institution in question") The said Km. Sunaina Devi was allotted centre for the High School Examination, which was other than the institution in question. Thereupon, one Pooran Lal Sonkar, claiming himself to be father and guardian of Km. Sunaina Devi, filed a Writ Petition being Civil Misc. Writ Petition No. 9456 of 2007. It is not disputed that the said Km. Sunaina Devi appeared in the High School examination from the centre allotted to her and passed the examination.

2. The present Special Appeal has been filed against the order dated 23.3.2007 passed by the learned Single Judge in the said Writ Petition. In paragraph 5 of the affidavit accompanying the Stay Application filed with the Appeal, the said Pooran Lal Sonkar, appellant in the present Special Appeal, has stated as under:

5. That the writ petition was preferred by imposter Pooran Lal Sonkar claiming himself father and guardian of Km. Sunaina Devi (Roll No. 1742890) regular student of High School Mahatma Jotir Rao Phule Vidya Ashram Higher Secondary School, Kara Dham, Tehsil Sirathu, District Kaushambi and the affidavit filed in

support of writ petition, the identity of imposter is as: "Affidavit of Pooran Lal Sonkar, aged about 52 years, S/o Sri RC Sonkar Rio Village and Post Office Chhota Teela, Kara Dham, Tehsil Sirathu, District Kaushambi" and Civil Misc. Stay Application No. 67562/07 u/s 151 C.P.C. supported by affidavit dated 13.3.2007 filed by deponent, indicating therein that he has not filed the writ petition rather some imposter in the name of deponent has filed the writ petition and hence deponent prayed to accept the affidavit dated 13.3.2007 and prayed Hon"ble Court to take judicial notice of the matter and to initiate suitable action against the persons involved in the forgery.

3. Thus, the case of the appellant is aforesaid writ Petition was filed by an claiming himself to be Pooran Lal Sonkar.

4. Case has been taken-up in the revised list. However, none is present for the appellant. The learned Standing Counsel appearing for the respondent Nos. 2, 3 and 4 submits that a Special Appeal being Special Appeal No. 954 of 2007 (Sanjay Mohan v. State of U.P. and others) was filed against various orders passed by the learned Single Judge in the aforesaid Writ Petition. By the judgment and order dated 22.11.2007, the said Special Appeal No. 954 of 2007 was decided by a Division Bench of this Court. The judgment of the Division Bench in the said Special Appeal No. 954 of 2007 is reported in 2008 (2) ADJ 397 (DB). Paragraphs 18, 19 and 20 of the Division Bench judgment in the said Special Appeal No. 954 of 2007 are reproduced below:

18. In these circumstances, we accept both the submissions of the appellant, namely, the petition had become infructuous once the daughter of the original petitioner had appeared at the examination from the center that was allotted to her and secondly, the orders passed by the learned Single Judge after change of roster were without jurisdiction and are liable to be treated as null and void.

19. In these circumstances, we allow this appeal and set aside the orders dated 12.3.2007; 23.3.2007, 6.4.2007, 4.5.2007, 2.7.2007, 9.8.2007, 17.9.2007 and 12.10.2007 passed by the learned Single Judge and the petition is also disposed of as worked out. The registry will make necessary entry.

20. In the circumstances of the case, obviously there will not be any order as to costs.

5. It will, thus, be noticed that the order dated 23.3.2007 passed by the learned Single Judge in the aforesaid Writ Petition, which is impugned in the present Special Appeal, was set-aside by the Division Bench in the said Special Appeal No. 954 of 2007. The Division Bench further disposed of the writ Petition with the observation that the Writ Petition had become infructuous once the said Km. Sunaina Devi a appeared in the examination from the center that was allotted to her.

6. In view of the above, it is not necessary to us to go into the question as to whether the aforesaid Writ Petition was filed by an imposter. As the subject

matter of the present writ Petition has already been considered by the Division Bench while deciding the said Special Appeal No. 954 of 2007, we dispose of the present Special Appeal with the same directions, as contained in the said judgment and order dated 22.11.2007 passed by the Division Bench in the said Special Appeal No. 954 of 2007.