

(2018) 04 UK CK 0042

In the Uttarakhand High Court

Case No : Writ Petition (M/S) No. 155 of 2018

RAJEEV RANJAN

APPELLANT

Vs

D.K SHARMA AND OTHERS

RESPONDENT

Date of Decision : 11-04-2018

Acts Referred:

Citation : (2018) 04 UK CK 0042

Hon'ble Judges : MANOJ K. TIWARI, J

Bench : Single Bench

Advocate : Vikas Bhauguna, Siddhartha Dutta, Sudhir Kumar

Final Decision : Allowed

Judgement

Manoj K. Tiwari, J

1. By means of this petition, petitioner has challenged the order dated 29.11.2017 passed by learned District Judge, Pauri Garhwal in Civil Appeal No.

32 of 2017, whereby the learned Appellate Court has revived the interim order dated 19.05.2017 passed by learned trial court, after dismissal of the suit.Â

2. Brief facts of the case are as follows:

3. D.K. Sharma (respondent no. 1 herein) filed a suit in the Court of Civil Judge (Senior Division) Kotdwar which was registered as Original Suit No.

42 of 2017. In the said suit, it was contended that plaintiff is a member of Rotary Club, Sikandrabad. Rotary Club is an international organization,

which is engaged in charitable activities. Rotary Club has constituted various Districts in the country and Rotary District 3100 consists of Revenue

Districts: Pauri Garhwal, Bulandshahar, Meerut, Muzaffarnagar, Bagpat, Amroha, Shamli, Biznor, Moradabad & Barot. The process of electing the

District Governor is held three years in advance and the plaintiff was elected as District Governor of District 3100 for the year 2017-18, on

03.01.2015. A notification regarding his election was also issued, however on 21.04.2016 the status of District 3100 was unilaterally changed to Non

District, without any notice to the plaintiff and charge of the said Non District was given to a special representative, Sri Sanjay Khanna. Plaintiff sent

several letters through e-mail to the defendants to restore District 3100 but no heed was paid to his letters. It was further contended that District 3100

was declared as Non District in the year 2017-18, but election process for the year 2018-19 has been initiated by Rotary International vide letter dated

18.04.2017. It was further stated that the action of the defendants to declare District 3100 as Non District is actuated with malice and there is no

complaint against his election and further that his election has not been canceled or set aside. Based on these pleadings, plaintiff sought relief of

permanent injunction, restraining the defendants from interfering with his functioning as District Governor for the period 01.07.2017 to 30.06.2018 and

further relief was sought to restore the District status of District 3100. Another relief, which was sought, was to stop the election process for the year

2018-2019 in respect of District 3100. Alongwith the said suit, Sri D.K. Sharma filed temporary injunction application.

3. Learned trial court after hearing the plaintiff on temporary injunction application, came to the conclusion that he was not heard before divesting him

of his right to assume charge of District Governor. Therefore, learned trial court vide ex-parte order dated 19.05.2017, stayed the order dated

21.04.2016 issued by the parent body and also stayed the election process for the year 2018-19 till next date fixed in the matter.Â

4. Sri Rajeev Ranjan (defendant no.8) challenged the ex-parte order dated 19.05.2017 passed by learned trial court before this Court by filing A.O.

No. 334 of 2017. A coordinate bench of this Court vide order dated 22.06.2017 stayed the order passed by learned trial court on 19.05.2017.

Thereafter, D.K. Sharma (plaintiff) filed SLP No. 16987 of 2017 against the order dated 22.06.2017 passed by this Court in A.O. No. 334 of 2017.

Honâ??ble Supreme Court vide order dated 07.07.2017 dismissed the S.L.P. with following observations:

Â â??We not inclined to interfere in the impugned judgment passed by the High Court. The special leave petition is, accordingly, dismissed. However,

in the interest of justice, we request the Trial Court to decide the matter expeditiously, preferably within three months, in accordance with law.â??

5. After dismissal of the S.L.P. filed by Sri D.K. Sharma (plaintiff), A.O. No. 334 of 2017 was disposed of in terms of the order of Honâ??ble

Supreme Court, vide order dated 28.07.2017. Relevant extract of the order passed in A.O. No. 334 of 2017 is extracted below:

â??It is pertinent to mention that this court passed an order dated 22.6.2017 whereby the order passed by the learned Civil Judge, Kotdwar dated

19.5.2017 was stayed, whereagainst Mr. D.K. Sharma went to the Honâ??ble Apex Court and filed the SLP No. 16987/2017.Â

Honâ??ble Supreme Court has declined to interfere in the impugned order of this court and SLP was dismissed.Â

However, in the interest of justice, the Trial Court was requested to decide the matter expeditiously preferably within three month in accordance with

law.Â

So, in the light of Honâ??ble Apex Courtâ??s order and in view of the prayer so made by the respondent no. 1, the standing counsel Mr. Raghav

Awasthi do also hereby agree that this appeal be disposed of in terms of the order of Honâ??ble Apex Court.â??

6. It appears that on 04.09.2017, learned trial court, again passed an interim order, staying the election process of Rotary District 3100 for the year

2018-19. This order was again challenged by one of the defendants before this Court by filing A.O. No. 551 of 2017. A coordinate bench of this Court

vide order dated 06.10.2017, stayed the trial courtâ??s order dated 04.09.2017. However, subsequently on 30.10.2017, A.O. No. 551 of 2017 was

dismissed for non-prosecution.Â

7. Soon thereafter, learned trial Court dismissed Original Suit No. 42 of 2017 vide judgment and order dated 17.11.2017. Plaintiff challenged the

judgment given by learned trial court by filing an appeal before learned District Judge, Pauri Garhwal, which was registered as Civil Appeal No. 32 of

2017. Learned District Judge, vide order dated 29.11.2017 admitted the appeal and also passed an ex-parte interim order to the following effect:

â??Considering all the facts and circumstances, I am of the view that the Trial Court has decided the Issue No. 1 to 6 in favour of the plaintiff but the

Trial Court dismissed the plaintiffâ??s suit. As such stay order of the Trial Court

dated 19.05.2017 shall remain effective till next date.â??

5. The interim order passed by learned District Judge, Pauri Garhwal in Civil Appeal No. 32 of 2017 has been put to challenge in the present writ petition.

6. Learned counsel for the petitioner submits that in view of the order passed by the Apex Court in S.L.P. No. 16987 of 2017 and the subsequent order passed by this Court in A.O. No. 334 of 2017, the interim order passed by the trial Court on 19.05.2017 became ineffective, thereafter it could not have been revived by the Appellate Court.

7. Mr. Sudhir Kumar, learned counsel appearing for the plaintiff-appellant (respondent no. 1 herein) very fairly concedes that interim order passed by Appellate Court on 29.11.2017 cannot be defended. The order passed by learned trial Court on 19.05.2017 was stayed by this Court in A.O. No. 334 of 2017 and S.L.P. against this Court's order was dismissed, therefore learned trial court's order dated 19.05.2017 did not survive thereafter.

Therefore, there was no question of reviving the said order, as was done by the Appellate court.Â

8. Learned counsel for respondent no.1 has informed the Court that the next date fixed for disposal of Civil Appeal is 27.04.2018, therefore he prays that the learned Appellate Court may be directed to decide the civil appeal, on the date fixed in the matter.

9. Having regard to the submission made by Mr. Sudhir Kumar, Advocate for respondent no. 1 that plaintiff-appellant was elected as District Governor for the year 2017-18 and his term is yet to come to an end, therefore it would be desirable that the Appellate Court hears and decides the appeal on the next date fixed i.e. 27.04.2018. Therefore, learned Appellate Court i.e. District Judge, Pauri Garhwal is requested to hear and decide the Civil Appeal No. 32 of 2017, on 27.04.2018 i.e., the next date fixed. If the matter is not taken up for hearing on that day, due to some unavoidable circumstances, the same shall be decided, in accordance with law, within a week thereafter. It is made clear that unnecessary adjournment shall not be given to any of the parties.

10. In such view of the matter, the order dated 29.11.2017 passed by learned District Judge, Pauri Garhwal is set aside. The writ petition is, accordingly, allowed.

11. Let certified copy of this order be supplied to learned counsel for the parties within 72 hours on payment of usual charges.