

(2008) 12 SC CK 0018

In the Supreme Court Of India

Case No : Special Leave Petition (C) No"s. 29728-29731 of 2008

State of Punjab and Another

APPELLANT

Vs

Ashok Singh Garcha and Others

RESPONDENT

Date of Decision : 19-12-2008

Acts Referred:

Constitution of India, 1950 — Article 136
Supreme Court Rules, 1966 — Order 16 Rule 4(1)

Citation : (2010) 1 ALT 15 : (2009) 1 SCALE 367 : (2009) 2 SCC 399 : (2009) 1 SCC(L&S) 384

Hon'ble Judges : R. V. Raveendran, J;J. M. Panchal, J

Bench : Division Bench

Advocate : Kuldip Singh, R.K. Pandey, T.P. Mishra, H.S. Sandhu and Ajay Pal, for the Appellant;

Final Decision : Allowed

Judgement

R.V. Raveendran, J.—No ground is made out for granting leave under Article 136 of the Constitution of India. The special leave petitions are therefore dismissed. We would however like to make a few observations in regard to the manner in which special leave petitions are drafted and filed, as this case is a typical example of lack of care and attention in drafting the petitions and list of dates.

2. The case of the petitioners is that there was a public auction sale of certain surplus evacuee rural lands on 5.12.1963; that on account of collusion between the officers holding the auction and one Shamsher Singh, there was no proper proclamation and consequently, the members of public were not present at the time of auction; and that the said Shamsher Singh cornered several lands by bidding in the names of his several relatives (respondents herein or their predecessors) at low prices.

3. But interestingly, we find that the synopsis/memo of dates filed by the petitioner along with the special leave petition, sets out a diametrically opposite case, as follows:

It is humbly submitted that the land measuring 78 Kanals 16 Marlas situated in village Khera Bet, Tehsil and District Ludhiana was put to open auction on December 5, 1963. Due process as required under the rules was followed before the auction proceedings were conducted. 70 persons including ex-sarpanch and nambardar (were present). However, the land being totally waste, and on the bank of river Satluj, only a few persons participated in the auction.

The bid sheet has been placed on the record as Annexure P-1. After auction proceedings the record was submitted to the competent authority, namely settlement officer for approval and confirmation of the bid, which was confirmed as no objection was raised by any body.

(emphasis supplied)

4. In short, the facts stated in the synopsis/list of dates destroy the case of the petitioners that the auction was conducted in a secretive manner to prevent public participation. The reason for such conflicting stands in the SLP and the synopsis/list of dates is that while preparing the synopsis/list of dates to be filed with the special leave petition, the petitioners had apparently copied the synopsis/list of dates/facts from the writ petition filed by the respondents in the High Court. In fact, Annexure 'P1' (bid sheet) referred in the memo of dates is an annexure to the writ petition and not to the special leave petition. Such mechanical 'cut and paste' reproduction of what was stated by the respondents in their writ petition, as the facts of the case by the petitioners, has resulted in the synopsis/list of dates containing a case wholly destructive of the case of petitioners in the special leave petition.

5. We have referred to this incongruity as typical of the synopsis/list of dates which are prepared without proper care and attention. Form 28 under the Supreme Court Rules 1966, which is the form prescribed for special leave petitions, does not require the facts to be stated in the petition. To enable the court to know the factual background, in the absence of records, Clause (b) of Rule 4 (1) of Order XVI of the said Rules requires a list of dates in chronological order with relevant material facts or events pertaining to each of the dates to be furnished along with the special leave petition. In practice, the list of dates is prefaced by a brief synopsis of facts to give a complete and coherent picture of the facts. But in most of the special leave petitions, the synopsis/list of dates filed suffer from one or the other of the following defects : (i) filing of only a synopsis without list of dates; (ii) filing of a list of dates without relevant material facts/events or synopsis; (iii) filing of inaccurate and incomplete synopsis/list of dates; and (iv) filing of lengthy synopsis/list of dates without any effort to make them concise or precise. Such defects in the preparation of a proper synopsis/list of dates cause confusion and result in defeating the very purpose of requiring the filing of synopsis/list of dates.

6. Petitions which are uncorrected and unedited, petitions with inaccurate translations and petitions not accompanied by relevant documents are also

common. Adjournments are frequently and routinely sought to produce (i) copies of original pleadings, in SLPs arising from civil suits; (ii) copies of FIR/complaint or depositions, in SLPs arising from criminal trials; and (iii) copies of relevant provisions of State enactments/rules in SLPs where such provisions fall for consideration. These result in avoidable adjournments for filing additional documents or additional affidavits. If the SLPs are properly prepared and filed with all relevant annexures, it will save the precious time of the courts as also of the learned Counsel, make the functioning of the Registry smoother and efficient, and prevent unintended miscarriage of justice. We are conscious of the difficulties in getting documents from far away places. But such difficulties have been reduced to a large extent on account of the easy availability of fax, e-mail and photocopying facilities. If clear and legible photocopies of certified copies of orders/judgments and other documents are filed, instead of typed copies thereof, that may reduce errors in typing and save time and expense. This Court has been liberal in condoning delays, keeping in view the time required for securing the necessary documents. But it should not be assumed that delays will be condoned or adjournments will be granted, merely for the asking. Nor should a stage be reached where it becomes necessary to frequently resort to dismissals for non-prosecution or levy of costs to ensure compliance. In short, the Advocates-on-Record should pay more attention to the preparation and filing of Special Leave Petitions.

7. One of the objects of providing that appearances and filings in this Court shall be only by or through Advocates-on-Record (unless the party appears in person) is to ensure that Advocates well versed with the Supreme Court Rules and experienced in drafting the petitions (with list of dates), will prepare and file them. That object will be defeated, if petitions are filed by Advocates-on-Record without verifying the facts or without preparing proper synopsis/list of dates. We also frequently come across special leave petitions, where the Advocates-on-Record who filed them do not appear. Even when asked to appear, they are not able to answer queries regarding the petitions filed in their names, thereby indicating that the petitions were filed in their names, by others. This unhealthy practice of Advocates-on-Record merely lending their names for filing SLPs or for entering 'appearances', without taking the responsibility for the proper preparation and filing of the SLPs, or the responsibility for proper appearances in the cases, requires to be deprecated.

8. It is with some reluctance and hesitation that we have drawn attention of the Advocates-on-record to the above aspects. We make it clear that:

-- the purpose of these observations is not to find fault with the Advocates-on-Record in general, but to focus their attention on areas that require improvement, to ensure that the litigant public are served better and to reduce delay and expense to the litigant; and

-- these SLPs. are rejected not on the ground of any defect in drafting, but on merits; the general observations in para 5 onwards are not with reference to

these petitions, which are well-drafted except the error in the list of dates.

The Registry is requested to place a copy of this order before the Hon. Chief Justice of India, for his kind consideration and if he so deems fit, to send a copy to the Supreme Court Advocates-on-Record Association.