
(2009) 05 SC CK 0290

In the Supreme Court Of India

Case No : Special Leave Petition (C) No. 20374, 20376 Of 2004

Sunkara Lakshminarasamma (Dead) & Anr

APPELLANT

Vs

Sagi Subba Raju & Ors

RESPONDENT

Date of Decision : 06-05-2009

Acts Referred:

Citation : (2009) 05 SC CK 0290

Hon'ble Judges : Dr. Arijit Pasayat, J;Asok Kumar Ganguly, J

Bench : Division Bench

Advocate : A. Subba Rao, Abhijit Sengupta, R.V. Kameshwaran, V.N. Raghupathy

Judgement

Dr. Arijit Pasayat, J

1. When the matter was taken up on 3.2.2009, the Court passed the following order "When the matter was taken up, Mr. M.N. Rao, learned senior counsel brought to the notice that I.A.Nos. 9 to 11/2008 had been filed for transposing the applicants as petitioners. It is also prayed that they may be transposed as petitioner Nos. 2 and 3 from proforma respondent Nos. 2 and 5 in special leave petition against the order in LPA No. No. 323/91. Petitioner Nos. 3 and 4 from respondent Nos. 1 and 3 in special leave petition against the order in Appeal too. 2959/2001 and Appeal No. 2960/2001.

This application is filed on 8.5.2008. Thereafter, a statement was made on 25.8.2008 by learned counsel for respondent 1 that the petitioner had died. Learned counsel wanted to obtain further instructions in the matter. Thereafter it appears that a copy of affidavit has been served on learned counsel for the petitioners as well, some of the respondents that Sunkara Lakshminarasamma had died about 1 and 1/2 years earlier. The affidavit is dated 26.12.2008. A copy has been filed for our record by learned counsel for the petitioner. An affidavit has been filed by Sunkara lakshminarasamma which has been filed on 30th January, 2009 stating that the affidavit filed by Sunkara Kamala is wrong and she is alive and a false affidavit has been filed.

In view of the aforesaid position, let notice be issued to Sunkara Kalama to show cause as to why action shall not be taken against her for swearing a false affidavit for the purpose of this case as is evident from the fact that copies thereof have been served on learned counsel for the parties. Reply, if any, shall be filed within two weeks. Personal presence is dispensed with for the present.

The matter shall be listed on 24th February, 2009."

2. In view of the statement made, notice was issued to Sunkara Kalama to show cause as to why action shall not be taken against her for swearing a false affidavit for the purpose of this case as is evident from the fact that the copies thereof have been served on learned counsel for the parties. Reply was to be filed within two weeks. At that stage personal appearance was dispensed with.

3. When the matter was listed on 4.3.2009, in spite of the directions of this Court, the respondent did not file any reply. This is apparently a clear case of contempt as false affidavit has been filed. On 8.9.2008 it was brought to the notice of this Court by Mr. A. Subba Rao, learned counsel for the petitioners that after verification from his clients he has ascertained that Mrs. Sunkara Lakshminarasamma and Thavvala Divya Sarojini Kasidevi are alive.

4. The affidavit which has been filed on 26.12.2008 states as follows:

"I, Smt. Sunkara Kalama @ Dorasani W/o late S. Veeraswamy R/o Bhimavaram, Distt. East Godhavari do hereby solemnly affirm and state on oath as follows:

1. I am the daughter-in-law of Sunkara Lakshminarasamma.

I am well conversant with the facts, records and circumstances of the case. Hence I am competent to swear in this affidavit.

2. I say that my mother-in-law had died one year and six month ago. I have filed an application for transposing as a petitioner in the above special leave petition and state that the averments facts made therein are true to my knowledge and information derived from the record of the case.

3. I say that the averments of facts stated herein above are true to my knowledge and no part of it is false and nothing material has been concealed there from.

3 Verified at Bhimavaram on this 26th day of December, 2008"

5. After the statements made by learned counsel for the petitioners that those whom the contemnor has named as dead are alive there is no denial of the statements. Opportunity was granted to the concerned respondents to clarify the position but that has not been done.

6. The application was made for transposition as petitioners in the special leave petitions. In view of the apparent false statement stated in the affidavit, it is clear that the application filed and the affidavit thereafter re- affirming the position were not done bona fide. That being so, the applicants on the face of it

are guilty of contempt of this Court. Exemplary costs of Rs.25,000/- is imposed. The amount shall be deposited in this Court within a period of two months. If the amount is not paid the contemnor shall suffer simple imprisonment for three months.

7. Ordered accordingly.