

Arjun Singh Vs. State of H.P. and ors.

Arjun Singh Vs. State of H.P. and ors.

SooperKanoon Citation : sooperkanoon.com/889337

Court : Himachal Pradesh

Decided On : Mar-16-2009

Judge : Deepak Gupta and; V.K. Ahuja, JJ.

Appellant : Arjun Singh

Respondent : State of H.P. and ors.

Advocate for Pet/Ap. : Shri. Ajay Kumar Dhiman

Judgement :

Deepak Gupta, J.

1. When this matter was taken up for hearing Shri Ajay Kumar Dhiman, learned Counsel for the petitioner made a request that senior counsel Shri Sultan Singh has not been able to come today and another date may be granted. This request cannot be allowed in view of the past history of the case.

2. The orders of this Court reflect that reply was filed by the respondents as far back in the year 2006. Thereafter on 26.12.2006 when the matter was listed, local counsel for the petitioner requested for a date and on his request actual date i.e. 4th April, 2007 was granted. On 4th April, 2007 when the matter was taken up the counsel who was supposed to come from Delhi did not appear and at the request of the local counsel matter was adjourned. When the matter was listed thereafter on 4th May, 2007 the original counsel did not appear and local counsel requested

for another date. Request was allowed and the case was fixed for 26th June, 2007 with the stipulation that no further adjournment would be granted. On 26th June, 2007 again Shri Sultan Singh did not appear and an adjournment was requested for on his behalf. We had clearly stated in our order dated 26th June, 2007 that normally we would not have acceded to such a request but in view of the special circumstances this request for adjournment was allowed subject to payment of Rs. 5,000/- as costs.

3. Thereafter, Shri Sultan Singh, Advocate appeared for the first time in this Court on 9th July, 2007. It transpired that the copies of the rejoinder filed by the petitioner had not been supplied to the respondents No. 2 and 3. On 11th September, 2007 a Division Bench of this Court headed by the Hon'ble Chief Justice ordered that the matter be listed on 22nd October, 2007 and it was made clear that no further adjournment shall be granted. Despite this on 22nd October, 2007 Shri Sultan Singh did not appear. Thereafter, the matter was again adjourned. On 8th May, 2008 none appeared for the petitioner. Shri Rakesh Jaswal, who was the local counsel withdrew from the case on the ground that the file has been taken from him. Name of Shri Ajay Kumar Dhiman was not reflected in the cause list and therefore, the matter was adjourned with the stipulation that the name of Shri Ajay Kumar Dhiman be reflected in the cause list in future. On 23rd May, 2008 Shri Ajay Kumar Dhiman requested that the matter be listed for 3rd June, 2008. On that date, original counsel appeared. Thereafter on three occasion matter was just adjourned. On 15th October, 2008 at the request of Shri Ajay Kumar Dhiman actual date was given and the matter was listed for 12th November, 2008 and on that date Shri Sultan Singh did not appear and we had passed the following order:

Shri Arun Kumar appearing vice Mr. Ajay Dhiman, Advocate, submits that Shri K.Sultan Singh, Advocate has been engaged to argue this matter could not come today since his brother met with an accident. At his request, the matter is adjourned. List the matter on 16th March, 2009. The record of this case shows that this case has been repeatedly adjourned at the request of the counsel for the petitioners. Today, adjournment has been granted by way of indulgence because of the accident of the brother of the counsel for the petitioner. It is made clear that

no further adjournment shall be granted under any circumstances on the next date.

4. This order shows that we had made it absolutely clear that no adjournment shall be granted under any circumstances. Today Shri Ajay Kumar Dhiman prayed for another adjournment. This cannot be granted. No special reason has been made out for special adjournment except that senior counsel has not been able to come today. The petitioner was well aware that we had made it absolutely clear that no further adjournment will be granted if Shri Sultan Singh did not come. Shri Ajay Kumar Dhiman, learned Counsel for the petitioner has stated that he is unable to argue the matter. He has stated that he does not have the file of the case and cannot assist the Court.

5. We have gone through the record of the case without any assistance from the petitioner.

6. By means of this writ petition, the petitioner has prayed that this Court may issue an appropriate writ, order or direction in respect of Gurudwara Paonta Sahib and an independent person or body should be asked to audit the accounts of the Gurudwara and manage the same. It has been further prayed that a receiver be appointed to take control of the management. The petitioner alongwith his writ petition has himself annexed the order of a learned Single Judge of the Delhi High Court Himachal Pradesh Bench, (then exercising jurisdiction over Himachal Pradesh) wherein an agreement was arrived at between the parties and a 11 member committee was appointed to look into the management of Gurudwara Paonta Sahib at Paonta Sahib. A scheme was framed in terms of Section 92 of the Code of Civil Procedure. We are absolutely clear that no writ could have been filed to modify the scheme framed by a judge exercising jurisdiction under Section 92 of the Code of Civil Procedure. The scheme can either be modified by moving an application in the same case or by filing a fresh suit under Section 92 of the Code of Civil Procedure. Reference may be made in this behalf to the decision of the Apex Court in *Raje Anandrao v. Shamrao and Ors.* : [1961]3SCR930 . The writ petition is totally misconceived and is accordingly rejected.

