

ITEM NO.16

COURT NO.8

SECTION XVII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

SMC (Crl.) No. 1/2016

IN RE.. COURT ON ITS OWN MOTION

Petitioner(s)

VERSUS

DEEPAK KHOSLA

Respondent(s)

(IA No. 162761/2022 - EXEMPTION FROM PERSONAL APPEARANCE
IA No. 13983/2018 - I/A TO PLACE ON RECORD A COPY OF THE APPLI.
CONTAINING THE APPELLANTS APOLOGY FILED BEFORE THE DELHI)

WITH

SLP(Crl) D 12309/2016 (II-C)

(IA No. 12567/2016 - Appl. seeking correction of the order dt
9.5.2016)

Crl.A. D 12723/2016 (II-C)

(IA No. 6837/2016 - PERMISSION TO APPEAR AND ARGUE IN PERSON

IA No. 12328/2016 - place on record compliance of order dt.
18.04.16

IA No. 53200/2016 - place on record compliance of order dt.
18.04.16)

SLP(Crl) No. 3425/2022 (II-C)

(IA No. 64552/2022 - APPLICATION FOR PERMISSION

IA No. 54082/2022 - EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT)

C.A. No. 6491/2022 (XVII)

(IA No. 200074/2022 - APPROPRIATE ORDERS/DIRECTIONS

IA No. 132668/2022 - EX-PARTE STAY

IA No. 132671/2022 - EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT)

SLP(C) No. 24191/2022 (XIV)

Date : 14-03-2023 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE B.R. GAVAI
HON'BLE MR. JUSTICE VIKRAM NATH
HON'BLE MR. JUSTICE SANJAY KAROL

Counsel for parties

Mr. Ranjit Kumar, Sr. Adv.
Mr. Jay Savla, Sr. Adv.

Mr. Jasdeep Singh Dhillon, AOR
Mr. Anand Mohan Mishra, Adv.
Mr. Prabhat Kumar Chaurasia, Adv.

Mr. Salman Khurshid, Sr. Adv.
Mrs. Naghma Imtiaz, Adv.
M/S. Equity Lex Associates, AOR

Petitioner/respondent-in-person

Mr. Arpit Shukla, AOR

Mr. Rahul Gupta, AOR

UPON hearing the counsel the Court made the following
O R D E R

1. During the course of hearing Mr. Jay Savla, learned senior counsel for the appellant herein in C.A. No.6491/2022 and for Respondent No.2 in CA No.389/2022, which is pending before NCLT, New Delhi, has placed on record a copy of the application filed by Shri Deepak Khosla, learned Advocate, before NCLT, against whom some of the proceedings are pending before this Court. It will be appropriate to refer to the averments made in paragraphs 2 and 9 of the said application as well as prayer clause (1) of the said application. The same are reproduced hereunder:-

"2. That this application has been filed to pray to this Hon'ble Tribunal that in discharge of its duty under Section 44 of the Evidence Act read with Article 141 of the Constitution of India, it may be pleased to ignore the 'nullity' order dated 23.09.2022 passed by the Hon'ble Supreme Court of India, the nature of its being a nullity arising on account of the relationship between the Respondent No.2 and one of the Hon'ble Judges on the Bench not disclosed by Respondent No.2 to the Hon'ble Supreme Court bench, leading to its inadvertently passing of the order without realising the connection.

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9. That when his appeal was listed before the Hon'ble Supreme Court of India, he had a duty to bring to the attention of the Hon'ble Supreme Court's bench the background relationship, leaving it to the Hon'ble Judge to decide whether or not he would like to continue her in the matter. (On the principle that 'justice must not only be done, but be seen to have been done', in the humble opinion of the applicant, the Hon'ble Judge, ordinarily, would have no justification to continue, nor reason not to recuse).

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PRAYER

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1. In discharge of its duty under Section 44 of the Evidence Act read with Article 141 of the Constitution of India, ignore the 'nullity' order dated 23.09.2022 passed by the Hon'ble Supreme Court of India, it being the product of fraud, as well as reflects actions taken 'without jurisdiction', both arising because the nature of its being a nullity arising on account of the relationship between the Respondent No.2 and one of the Hon'ble Judges on the Bench was deliberately suppressed by Respondent No.2 from the Hon'ble Supreme Court bench, leading to its inadvertently passing of the order without realising the connection."

2. On being asked, Shri Salman Khurshid, learned Senior Counsel, who appears for Shri Deepak Khosla, as to whether Shri Khosla disputes of filing such an application, Shri Khurshid fairly states that Shri Khosla does not dispute filing such an application.

3. A specific averment is made in the application that the order passed by this Court dated 23.09.2022 is a nullity arising on account of the relationship between Respondent No.2 in CA No.389/2022 and one of the Hon'ble Judges on the Bench, not being disclosed by Respondent No.2 to this Court.

4. On being asked as to which of the two Judges who were party to that order is referred to in the application, Shri Khurshid submits that as Shri Khosla is personally present in this Court, it will be appropriate if this Court puts the said query to Shri Khosla.

5. On being asked, Shri Khosla submits that the said statement has been made inadvertently. He states that one of the matters was placed before a Bench of which Hon'ble Mr. Justice P.S. Narasimha was a member. He further states that Hon'ble Mr. Justice P.S. Narasimha was a choice of Respondent No.2-Mr. Vikram Bakshi, as an Arbitrator before the elevation of Hon'ble Mr. Justice P.S. Narasimha. He, therefore, inadvertently made the averments in paragraphs 2 and 9 and prayer clause (1) to that effect.

6. Shri Khosla is not an ordinary litigant, he has a rich experience of fighting litigation before this Court, the High Courts and various other Courts, though may be in limited matters.

7. We could have understood a layman being inadvertently getting confused between the Members of the Bench, who were party to the order. But a lawyer and a party-in-person, who is day in and day out before various Courts cannot be given the benefit of ignorance particularly so, when Mr. Khosla is already facing number of contempt proceedings, it is difficult to believe that the said statement was made inadvertently.

8. The order dated 23.09.2022 is passed by a Bench to which one of us (Gavai, J.) and Hon'ble Mr. Justice C.T. Ravi Kumar are parties. On a specific query to Shri Khosla, as to whether any of us has any relations with Shri Vikram Bakshi, he fairly states that he did not mean to say that but, however, inadvertently on account of confusion, since Hon'ble Mr. Justice P.S. Narasimha was a member of one of the Benches, he made the aforesaid averments.

9. Every litigant and particularly a litigant when he is a lawyer is bound to be cautious while making any averment in the pleadings. As held by this Court in M.Y. Sharif and Another v. The Hon'ble Judges of the High Court of Nagpur and Others, reported in 1955 AIR SC 19, even a lawyer who is signatory to derogatory averments is guilty for committing contempt. When an order is passed by this Court staying the impugned order making an application before the NCLT, New Delhi, that NCLT should proceed further with the hearing of the matter, irrespective of the status quo granted by this Court, is nothing else but making an attempt to bring the dignity of the highest Court of the Country in lower esteem. It is nothing else but an attempt to browbeat the members of the NCLT. Such a conduct, in our view, by the party, who is already facing a number of contempt proceedings is nothing else but committing an aggravated contempt.

10. We, therefore, issue notice to Shri Deepak Khosla, Advocate, D-367, 3rd Floor, Defence Colony, New Delhi - 110024, calling upon him to show cause as to why an action for committing aggravated contempt of this Court be not taken against him.

11. Shri Deepak Khosla, who is personally present in the Court

graciously accepts the notice.

12. At the request of Shri Khosla, four weeks time is granted to him to file his reply.

13. List on 18.04.2023.

(NARENDRA PRASAD)
ASTT. REGISTRAR-cum-PS

(ANJU KAPOOR)
COURT MASTER (NSH)