

2023 LiveLaw (SC) 176

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

V. RAMASUBRAMANIAN; J., PANKAJ MITHAL; J.

CIVIL APPEAL NO. /2023 (@ SLP(C) NO.21197/2022) 24 February, 2023

STATE OF U.P. & ORS. versus PRAHALAD SINGH & ORS.

Contempt of Courts Act 1971 - While it is open to the High court to come to any conclusion on the basis of the pleadings and materials available on record, it is not open to the Court to summon the appearance of the officials at the drop of the hat.

(Arising out of impugned final judgment and order dated 10-11-2022 in WA No. 4052/2006 passed by the High Court of Judicature at Allahabad, Lucknow Bench)

For Petitioner(s) Ms. Aishwarya Bhati, Sr. Adv. Mr. Bhakti Vardhan Singh, AOR Ms. Shreya Jain, Adv. Mr. Ankit, Adv.

For Respondent(s) Mr. Mohit Kumar Gupta, AOR Mr. Amarendra Kumar Bajpai, Adv. Ms. Tejaswini Bajpai, Adv. Ms. Tapasya Bajpai, Adv.

ORDER

Leave granted.

The appeal arises out of an order passed by the High Court of Judicature at Allahabad, Lucknow Bench, in a pending writ petition directing the personal appearance of the Chief Secretary, Institutional Finance, Government of Uttar Pradesh, Civil Secretariat, Lucknow as well as the Inspector General of Registration, U.P. at Allahabad, Camp Office, Gomti Nagar, Lucknow.

Heard Ms. Aishwarya Bhati, learned Additional Solicitor General appearing for the appellants and Mr. Mohit Kumar Gupta, the learned counsel appearing for the respondents.

The respondents herein have filed a writ application No.4052/2006, seeking relief of regularisation of their services.

When the said writ petition came up before the High Court, the High Court took note of a judgment dated 05.10.2017 in Special Appeal No.767/2004, pursuant to which a three-member committee was constituted. When the three-member committee's report dated 09.08.2018 was placed, the learned judge before whom the writ application, out of which the present appeal arises came up, thought that the order dated 05.10.2017 had been flouted by the respondents. Therefore, the learned Judge, by the order impugned in this appeal directed the personal appearance of the Chief Secretary and the Inspector General of Registration.

This Court has repeatedly held that while it is open to the High court to come to any conclusion on the basis of the pleadings and materials available on record, it is not open to the Court to summon the appearance of the officials at the drop of the hat. If the High Court felt that the order dated 05.10.2017 had not been complied with, the course of action open was completely different. As a matter of fact, a contempt was already filed in Contempt Petition No.3745/2018 complaining of violation of the order dated 05.10.2017. But the said contempt petition was dismissed by another learned Judge by an order dated 29.11.2018 and the special leave petition arising out of the said order was also dismissed by this Court by order dated 08.03.2019.

Therefore, we are of the considered view that portion of the impugned order by which the appearance of the officials has been ordered by the High Court should be set aside. Accordingly, the portion of the impugned order where the Chief Secretary, Institutional Finance and the Inspector General of Registration have been summoned, is set aside. The High Court is now free to decide the *lis* between the parties on the basis of the material available on record, in accordance with law.

Hence, the appeal is disposed of.

Pending application(s), if any, shall stand disposed of.