

2022 LiveLaw (SC) 249

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

M.R. SHAH: B.V. NAGARATHNA, JJ.

February 28, 2022

CIVIL APPEAL NO. 1690 OF 2022 (Arising out of SLP (C) No. 4055 of 2020)

STATE OF UTTAR PRADESH & ORS. *VERSUS* PREM KUMAR SHUKLA & ANR.

Constitution of India, 1950; Article 226 - Writ Appeal - There must be an independent application of mind and at least some independent reasoning to be given by the appellate Court while deciding and disposing of the writ appeal.

(Para 6)

Summary - Appeal against High Court judgment which dismissed special (writ) appeal without independent reasoning - Allowed - This is not the manner in which the Division Bench should have decided and disposed of the writ appeal. Thus, the Division Bench of the High Court has not exercised the appellate jurisdiction vested in it - Remanded for fresh consideration.

(Arising out of impugned final judgment and order dated 15-10-2019 in SPLAD No. 461/2019 passed by the High Court Of Judicature At Allahabad, Lucknow Bench)

For Petitioner(s) Mr. V.K. Shukla, Sr. Adv. Mr. Harish Pandey, AOR

For Respondent(s) Mr. Pradeep Kant, Sr. Adv. Ms. S. Janani, AOR Mr. Sunando Raha, Adv. Mr. Kunal Malik, Adv. Mr. Anupam Raina, AOR

ORDER

1. Leave granted.

2. We have heard Mr. V.K. Shukla, learned Senior Advocate appearing on behalf of the appellant-State of U.P. and Mr. Pradeep Kant, learned Senior Advocate appearing on behalf of the respondents.

3. Feeling aggrieved and dissatisfied with the impugned judgment and order passed by the High Court of Judicature at Allahabad, Lucknow Bench, Lucknow in Special Appeal Defective No. 461/2019 by which the Division Bench of the High Court has dismissed the said appeal preferred by the appellants herein – State of U.P. and Others and not interfered with the judgment and order passed by the learned Single Judge, the original appellants before the High Court have preferred the present Appeal.

4. We have heard the learned Senior Advocates appearing for the respective parties at length.

5. We have gone through the impugned judgment and order passed by the Division Bench of the High Court. The manner in which the Division Bench of the High Court has dealt with and decided and disposed of the writ appeal cannot be approved. Except, reproducing paras 7 to 15 from the judgment of the learned Single Judge, there is no independent application of mind at all by the Division Bench. After

reproducing paras 7 to 15, thereafter the appeal is dismissed by observing in three lines as under:-

“On due consideration, we are of the view that the learned Writ Court has not committed any legal error while passing the impugned order.

The Special Appeal lacks merit and is, accordingly, dismissed.”

6. This is not the manner in which the Division Bench should have decided and disposed of the writ appeal. Thus, the Division Bench of the High Court has not exercised the appellate jurisdiction vested in it. There must be an independent application of mind and at least some independent reasoning to be given by the appellate Court while deciding and disposing of the writ appeal.

7. In view of the above, the impugned judgment and order passed by the High Court dismissing the writ appeal is unsustainable and the same deserves to be quashed and set aside and is, accordingly, quashed and set aside. However, as nothing has been further discussed by the Division Bench of the High Court on merits, we have no other alternative but to remand the matter to the High Court to decide the writ appeal afresh in accordance with law and on its own merits and pass a speaking reasoned order.

8. The impugned judgment and order passed by the High Court is hereby quashed and set aside. The matter is remanded to the High Court to decide the writ appeal afresh as observed hereinabove. The said exercise to be completed within a period of six months from the date of receipt of the present order.

9. The present appeal is, accordingly, allowed to the aforesaid extent. No costs.

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