

Court No. - 36

Case :- SECOND APPEAL No. - 626 of 2006

Appellant :- Rajneesh Kumar And Others

Respondent :- Santosh Kumar And Others

Counsel for Appellant :- Manish Kumar Nigam,Rahul Sahai

Counsel for Respondent :- R.K. Misra,Arvind Kumar,Kshitij Shailendra,Neeraj Agarwal

Hon'ble Kshitij Shailendra,J.

Ref: Civil Misc. Recall Application No. 9 of 2024

1. A mention was made today in the morning by Shri Rahul Sahai along with Shri Siddharth Srivastava, learned counsel for the appellants that the learned brief holder, namely, Shri Siddharth Srivastava is ready with an application seeking recall of the order dated 11.11.2024 passed by me for expunging the remarks made against the said learned counsel in the said order and a request was made that matter being important and urgent considering the career of the young counsel, namely, Shri Siddharth Srivastava, the application be heard urgently.

2. Accordingly, the Court permitted the learned counsel to file application in the registry and to give a slip to the Bench Secretary after its filing for immediate consideration by this Court. The application was filed and was allotted a number by the office and was placed before me for consideration.

3. By means of this application filed by applicant Shri Siddharth Srivastava, Advocate, prayer to recall the order dated 11.11.2024 has been made with a further prayer to pass a fresh order by expunging remarks made in paragraph Nos. 1 to 9. Further prayer has been made to direct the registry to remove the order from the website.

4. The application is supported by affidavit of Shri Jata Shanker Shukla, Assistant/Clerk in the office of learned counsel for the appellants/applicant and following explanation has been offered as regards non-informing the Court of the fact regarding my engagement as counsel for respondent No.1:-

"2. That, at the very outset a sincere and earnest apology is tendered before this Hon'ble Court for the lapse on the part of the counsel Mr. Siddharth Srivastava, holding the brief of counsel for the appellant in not informing the court of the fact that Hon'ble Mr. Justice Kshitij Shailendra J., was once a counsel engaged on behalf of one of the parties to the litigation.

3. That, the aforesaid lapse/mistake was on account of a pure human error and oversight on the part of the learned counsel holding the brief of the counsel for the applicant.

4. That, the afore-stated set of facts were unbeknownst to Mr. Siddharth Srivastava, Advocate, who had innocently acted on the instructions of the office of the counsel for the appellant in making a mention of the present case for withdrawal.

5. That, also, the fact of past engagement of His Lordship in the present case escaped notice of the office of the counsel for the Appellant, owing purely to inadvertence and human error. It may also be noticed that, nowadays, printed cause lists containing the names of the learned counsels appearing for the respective parties are no longer being issued. The medium of preparation of cause lists relied upon by the offices of almost all the practitioners is SMS, High Court Email or the Email containing the list generated by Voletic Technologies Services, none of which contains the names of the learned counsels appearing for the parties. It merely discloses the case number, serial number, court and the names of the parties to the matter. Thus, the scope for error is magnified. Sadly, unfortunately, and with deep repentance Mr. Srivastava has found himself in the midst of this fiasco.

6. That, with utmost humility and deepest respect, it is being put forth before this Hon'ble Court that the Affidavits in the present case were filed through Mr. Neeraj Agarwal, Advocate, which also led the office of the Counsel for the Applicant to serve a copy of the withdrawal application upon him, not realising that he was no longer appearing for the other side.

7. That, Mr. Siddharth Srivastava is a sincere and courteous counsel

who would never knowingly do any act which undermines the majesty of this Hon'ble Court. The unfortunate unfolding of events is deeply regretted."

5. The explanation offered in the affidavit supporting recall application is found to be satisfactory. The apology tendered is also accepted.

6. The recall application is **allowed**.

7. The remarks made against Shri Siddharth Srivastava, Advocate holding brief of Shri Rahul Sahai, learned counsel for the appellants in my earlier order dated 11.11.2024 stand **expunged** and the same shall not be read further anywhere.

8. It has also come in the knowledge of the Court that the order dated 11.11.2024 has been and is being published by certain legal news websites/platforms. The officials of said websites/platforms are directed to forthwith publish recall of the order regarding expunging the remarks and acceptance of unconditional apology and explanation offered.

9. The remarks contained in the order dated 11.11.2024 shall also be deemed as deleted from the official website of this Court.

10. However, paragraph No. 10 of the order dated 11.11.2024 would remain intact and, accordingly, **the matter shall be placed before Hon'ble The Chief Justice for obtaining nomination of another Bench, if possible, in the first week of December, 2024.**

Order Date :- 14.11.2024

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