

V.L. PATIL
v.
ARJUN HALAPPA NAIKAWADI AND ORS.

AUGUST 7, 1996

[M.M. PUNCHHI AND K. VENKATASWAMI, JJ.]

Judicial strictures—Expunction of

Strictures passed by High Court against appellant as an individual litigant and also as a Minister at that point of time and alleged to have influenced the decision making of the Land Tribunal—Held, there is no evidence, direct or circumstantial to sustain the remarks passed by the High Court against the appellant as a Minister—The remarks which reflect the conduct of the appellant as a Minister are expunged from the Judgments at all places wherever figuring—But the remarks confined to his conduct as an individual litigant shall sustain—Expunction of remarks cannot be sought by a litigant if those were legitimately made from the conclusions and inferences drawn by a court.

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 502-503 of 1988.

From the Judgment and Order dated 7.9.87 of the Karnataka High Court in W.A. Nos. 1996 and 2456 of 1986.

Dr. A.M. Singhvi, Ms. Kiran Suri for the Appellants.

K.H. Nobin Singh and M. Veerappa for the Respondent Nos. 8, 9 and 15.

P. Mahale for the Respondent No.1.

The following Order of the Court was delivered :

The appellant, the aggrieved party in these two appeals, was granted special leave limited to the question as to whether the learned Single Judge of the High Court was justified in passing strictures against the appellant. On merit of the matter, the fate of the cases stands sealed.

The reference to the appellant in the Judgment of the learned Single

A Judge is in two capacities: (i) as a party-respondent connected with the merits of the matter; and (ii) his brooding presence as a Minister of the time to have influenced the decision-making of the Land Tribunal, it being a land reforms matter. The learned Single Judge in paragraph 4 of his judgment observed as follows :

B "But, in this case it appears to me that the regular procedure prescribed by the Land Reforms Act for conferring occupancy rights on the tenants who were in occupation of the lands immediately prior to 1.8.1974 had been abused by the Chairman and the members of the Tribunal to cause wilful loss to the petitioners and they did not have the courage of their convictions to *stand up to the machinations of respondent-3 (the appellant herein) who was admittedly a Minister of the State Government at the relevant time.*" (emphasis supplied).

D On appeal to the Division Bench of the High Court at the instance of the appellant, the Division Bench in para 31 of its judgment observed as follows :

E "As earlier observed, we do not find any direct evidence to hold that the impugned order was passed by the Tribunal at the behest of the appellant who exercised his influence on them. But the facts and circumstances of the case leave no manner of doubt that after the passing of a decree in the partition suit, a determined effort which was within the knowledge of the appellant, was made to defeat the claim of Naikwadi family, which in our view was wholly unjustified."

F The Bench further observed in paragraph 37 as follows :

G "Having arrived at the aforesaid conclusion, one question still remains to be answered i.e., whether respondent - 3 (appellant) exerted his extra constitutional power and influence on the members of the Tribunal who yielded to such influence. On this aspect, it was very fairly conceded by Mr. Bannurmath, learned counsel for the writ petitioners, that there was no evidence to prove any direct link between the appellant and members of the Tribunal. Even we, after going through all the relevant evidence find that there is no positive direct evidence to prove the exercising of the

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extra constitutional power and influence on the Members of the Tribunal. That being so, the next question that arises for consideration whether there is any circumstantial evidence on the basis of which such an inference can be drawn. In our view on the facts and circumstances of this case, it would be too much stretching to hold that to procure the impugned order such an influence was exerted by the appellant (respondent-3) himself. The facts of the case do reveal the revival of interest of respondent-3 in the land in dispute and the determined effort of Smt. Aruna Devi to deny the possession of the Naikwadi family and defeat their claim. But these facts plus the fact that respondent-3 was a Minister in the State Cabinet by themselves, in our opinion do not lead to a positive conclusion that the impugned order is the outcome of the exercise of extra- constitutional power and influence on the members of the Tribunal, yet suspicion is left unerased that the impugned order may have been passed to please respondent-3 or at his behest."

We have been taken through the other relevant portions of the judgments of the learned Single Judge as well as that of the Division Bench which reflect on the conduct of the appellant in his capacity as a litigant, for it was his lands which were being subjected to the provisions of the relevant Land Reforms Act. His conduct as a litigant could definitely be commented upon by the courts and that part of the order would have to sustain, for expunction of remarks cannot be sought by a litigant if those were legitimately made from the conclusions and inferences drawn by a court. But, here we have his name as a Minister brought in to cast a shadow on the merits of the matters and this is a pinch unbearable to the appellant.

It is evident from the afore-extracted passage from the judgment of the learned Single Judge that he spelled out a direct nexus between the conduct of the members of the Tribunal and the appellant being a Minister at the relevant time. The Division Bench however could not sustain that view of the Single Bench as is evident from the two afore-extracted passages from its judgment. It has been viewed that there was neither direct nor circumstantial evidence to prove any nexus between the appellant and the members of the tribunal. The finding was dressed down to be described as an 'unerased suspicion' that the impugned order may have been passed

A to please respondent No. 3 (the appellant) or at his behest. On such infirm and shaky finding, we are not prepared to sustain the remarks passed by the High Court against the appellant as a Minister. In our view, the High Court at both the stages was in error in linking or dragging the appellant's name as a Minister with the deliberations of the Tribunal. The tribunal may have gone wrong or right on the merit of the matters but the presence of

B the appellant as being a Minister at the relevant time could not be linked in any manner with the legal proceedings. The remarks which reflect the conduct of the appellant as a Minister are hereby expunged from the judgments at all places wherever figuring but the remarks confined to his conduct as an individual litigant shall sustain.

C The appeals are partially allowed to the afore extent.

No costs.

R.P.

Appeals allowed.