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BABA TEK SINGH

v.

UNION OF INDIA & ORS.

(Writ Petition (Civil) No. 376 of 2012)

SEPTEMBER 17, 2012

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[AFTAB ALAM AND RANJANA PRAKASH DESAI, JJ.]

Constitution of India, 1950 – Article 32 – Writ petition – Maintainability – Petitioner filing petition under Article 226 of Constitution alleging threat to his life and personal liberty – Withdrawing the petition feeling that the proceeding before High Court were not effective – Subsequently filing petition under Article 32 for the same remedies – Held: The petition under Article 32 is not maintainable – The action of the petitioner in withdrawing the Petition pending before High Court simply to file the petition under Article 32 is not acceptable – The petitioner is wrong in his belief that proceedings before High Court are not effective or that he would not get full protection from High Court – High Courts have wide powers and possess as much authority as Supreme Court to protect and safeguard the constitutional rights – Since the matter relates to the right to life and personal liberty and since the allegations prima facie do not appear to be unfounded and baseless, the petitioner is not left remediless – Request to the High Court to restore the petition under Article 226 to its original file and to proceed further in the matter in accordance with law.

CIVIL ORIGINAL JURISDICTION : Writ Petition (Civil) No. 376 of 2012.

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Under Article 32 of the Constitution of India.

P.N. Misra, M.L. Saggarr, Rajinder Mathur for the Petitioner.

The following Order of the Court was delivered by

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O R D E R

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1. In this petition filed under Article 32 of the Constitution, the petitioner states that he apprehends threat to his life, personal liberty and property at the hands of the respondents. It is alleged that the respondents want to remove him from his positions as Mohatmim of Gurudwara Gurusar Sahib, Patshahi Nauvin, Dhanaula, District Barnala (Punjab) and the President of the Baba Gandha Singh Trust (Registered) and to take over the control of the trust and its properties, including three schools at Barnala being run by the Trust. It is further alleged that the respondents hold very important positions in the Government and wield great political influence. At their behest, the petitioner is being constantly hounded by the police and he has been taken in illegal custody on completely false charges on a number of occasions. The petitioner apprehends that he may even be eliminated at the instance of the respondents.

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2. There may be some substance in the allegations made in the writ petition but we do not wish to comment upon the merits of the petitioner's case, as we are not inclined to entertain the writ petition because we disapprove the manner in which the matter is brought to this Court.

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3. The petitioner has instituted a number of proceedings (criminal and of the nature of contempt and writs) before the Punjab and Haryana High Court and in those cases he has also been getting orders in his favour. One such writ petition filed by the writ petitioner before the Punjab and Haryana High Court was CWP No.21234/2011. The petitioner seems to have felt that the other side was delaying the matter and the case was not proceeding efficaciously before the High Court. He, therefore, filed a petition (CM No.8619 of 2012) for withdrawal of the writ petition. On July 18, 2012, the High Court allowed the application and permitted the petitioner to withdraw his writ petition before the High Court and to seek any other remedy available in law.

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4. Having, thus, withdrawn his writ petition before the High

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A Court, the petitioner has come to this Court in this petition under Article 32 of the Constitution.

5. We take exception to the manner in which this petition has been filed before the Court. The petitioner is completely wrong in his belief that the proceeding before the High Court was not effective or that he would not have got full and complete protection from the High Court, if the High Court found the need to give him the protection. The petitioner must realise that the High Courts have wide powers and possess as much authority as this Court to protect and safeguard the constitutional rights of any person within their jurisdiction. We find the action of the petitioner in withdrawing the proceedings pending before the High Court simply to file this petition before this Court unacceptable and for this reason alone, we refuse to entertain this writ petition.

6. Had it been any ordinary civil case, we might have left the petitioner to face consequences of his action in withdrawing the proceedings before the High Court. But, since the matter relates to the right to life and personal liberty, and further since the allegations made in the writ petition *prima facie* do not appear to be unfounded and baseless, we cannot leave the petitioner completely remediless. We, therefore, request the High Court to restore the aforesaid CWP No.21234/2011 to its original file and to proceed further in the matter, in accordance with law. We hope and trust that the High Court will completely dispel any impression that the other side may delay the proceedings and take up the matter without any undue delay.

7. We, once again, make it clear that we are not expressing any opinion on the merits of the case and it is for the High Court to judge the matter independently and to pass appropriate orders in accordance with law.

8. The writ petition is disposed of with the aforesaid observations and directions.

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Writ Petition disposed of.