

REPORTABLE
IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

I. A. NO. 2

IN

SPECIAL LEAVE PETITION (C) No. 31797 of 2010

Raja Khan

Petitioner

-versus-

U.P. Sunni Central Waqf Board & Anr.

Respondents

ORDER

1. This is an application praying for expunging certain remarks made in our judgment dated 26.11.2010 in the aforesaid case.

2. The Allahabad High Court has had a glorious history having produced great lawyers who were leaders in the Independence struggle. It is the largest High Court in India, and often gives leadership to all the High Courts in the country. There have been many great Judges who have adorned the bench of the High Court upholding the rich traditions of the Court and maintaining the highest level of integrity e.g. Justice Mahmood, Justice

Pramoda Charan Banerjee, Chief Justice Shah Mohammed Suleiman, Chief Justice Kamla Kant Verma, Justice Vashisht Bhargava, Chief Justice O.H. Mootham, Chief Justice Nasirulla Beg, Justice S.N. Dwivedi, Justice Satish Chandra, Justice Yashoda Nandan, Justice H.N. Seth, Justice N.D. Ojha, Justice C.S.P. Singh, Justice A. N. Verma, etc. Hence what happens in the Allahabad High Court is of great importance to the entire judiciary in the country, as it will have great impact on all the High Courts in the country.

3. There are presently many excellent Judges of the Allahabad High Court. These upright Judges are keeping the flag of the High Court flying high by their integrity and hard work. It is therefore totally false to say that all Judges of the Allahabad High Court are corrupt, or to construe our order dated 26.11.2010 in that manner. It is nowhere mentioned in the said order that all Judges of the High Court are corrupt. What is mentioned in the order is that there are complaints against “certain Judges”, not all Judges. It has been mentioned in the order that many lawyers who are relatives of Judges are scrupulously taking care that no one should lift a finger on that account. It is clarified that many Judges in the High Court are doing the same.

4. One of us (M. Katju, J.) has close attachment to the Allahabad High Court as his family has been associated with the High Court for over a

century. It is, therefore, inconceivable that he would like to damage the High Court in any way. However, what has caused great pain and anguish to us, are certain unfortunate happenings for some time in the Allahabad High Court. It is not necessary to mention all of them here, but reference can certainly be made to certain distressing orders passed during the Summer Vacations by certain Judges of the High Court this year (2010), one of which pertains to this very case.

5. In para 9 of the Application filed before us it is stated that sweeping observations have been made against the High court. This is not correct. In fact, in the order dated 26.11.2010 it has been stated –

“We do not mean to say that all lawyers who have close relations as Judges of the High Court are misusing that relationship. Some are scrupulously taking care that no one should lift a finger on this account. However, others are shamelessly taking advantage of this relationship”

How is the above a sweeping observation? A distinction is clearly made in the above between those who are taking care of their reputation and those who are not.

6. It is alleged in paragraph 9 of the application that the observations we have made in our order “seriously damage the reputation of the institution” and sully its image. In this connection we wish to say that the reputation of an institution is damaged and its image sullied when some of its members pass shocking orders and behave in a totally unacceptable manner.

7. We can quite appreciate the anguish of some of the learned Judges of the Allahabad High Court, but we cannot overlook the fact that there are times when introspection is required, and not mere reaction. We earnestly request the Hon’ble Judges of the High Court to consider our order in that spirit.

8. We again reiterate that there are many excellent Judges in the Allahabad High Court who are working hard and doing their duty honestly, and we have not painted everyone with the same brush.

9. With these observations the Application stands disposed of.

.....J.
[MARKANDEY KATJU]

NEW DELHI;
DECEMBER 10, 2010

.....J.
[GYAN SUDHA MISRA]