

CASE NO.:
Appeal (civil) 6716-6719 of 1999

PETITIONER:
U.P. State Road Transport
Corporation through its Chairman

RESPONDENT:
Omaditya Verma & Ors.

DATE OF JUDGMENT: 15/07/2005

BENCH:
ASHOK BHAN & A.K. MATHUR

JUDGMENT:
JUDGEMENT

O R D E R
I.A.Nos.14-17 and 18-21

IN

CIVIL APPEAL NOS. 6716-6719 OF 1999

A.K. MATHUR, J.

I.A.Nos.14 to 17 have been filed in C.A.Nos.6716-6719 of 1999 with prayer that Order dated 5.4.2005 be recalled as applicants were not served & they may be heard in the matter. We have heard learned counsel for parties and we don't find any merit.

Applicant No.1- Umaditya Verma was respondent No.1 in C.A. No.6716 of 1999 arising out of S.L.P.) No.18435 of 1998. Dasti notice was served on him on May 25, 1999 in S.L.P.) No.18435 of 1998 and affidavit of dasti service has been sworn in by Shri H.S.Gaba, the Asst. Regional Manager of the appellant.-U.P.State Road Transport Corporation and filed in the Registry along with duplicate copy of the notice which bears his signature. Applicant No.2- Smt. Santosh was respondent No.5 in C.A.No.6716 of 1999 arising out of S.L.P.(C) No. 18435 of 1998. Notice in S.L.P(C) No.18435 of 1998 was duly served on her by registered post and acknowledgment due card which was signed by her on March 5, 1999 has been received back in the Registry. Applicant No.3- Digvijay Singh was respondent No.7 in C.A.No.6716 of 1999 arising out of S.L.P(C) No.18435 of 1998. He has been served dasti in S.L.P(C) No.18435 of 1998 on June 1, 1999 and affidavit of dasti service has been sworn in by Shri H.S.Gaba, the Assistant Regional Manager of the appellant- U.P. State Road Transport Corporation and filed in the Registry along with duplicate copy of the notice which bears his signature. Applicant No.4- Pradeep Singh was respondent No.10 in C.A.No.6716 of 1999 arising out of S.L.P(C) No.18435 of 1998 and affidavit of dasti service in S.L.P(C) No. 18435 of 1998 has been sworn in by Shri H.S.Gaba, the Assistant Regional Manager of the appellant- U.P. State Road Transport Corporation and filed in the Registry along with the duplicate copy of the notice which bears the signature of applicant No.4. Applicant No.5- Randhir Singh was respondent No.1 in C.A.No.6717 of 1999 arising out of S.L.P. (C) No. 18436 of 1998. Notice in S.L.P.(C) No.18436 of 1998 was duly served on him by registered post and acknowledgment due card which was signed by him on March 5, 1999 has been received back in the Registry. Applicant No.6- Sanjeev Kumar was respondent No.9 in C.A.No.6717 of 1999 arising out of S.L.P (C) No.18436 of

1998. He has been served dasti in S.L.P) No.18436 of 1998 and affidavit of dasti service has been sworn in by Shri H.S.Gaba, the Assistant Regional Manager of the appellant- U.P. State Road Transport Corporation and filed in the Registry along with the duplicate copy of the notice which bears the signature of applicant No.6. The present I.As. i.e. I.A.Nos. 14 -17 have been filed under Order XIX Rule 4 of the Supreme Court Rules, 1966. These I.As. are supported by an affidavit of one Digvijay Singh. Digvijay Singh in his affidavit says that he is applicant No.6 whereas in the I.As. he has been arrayed as applicant No.3. Therefore, this averment of Digvijay Singh is erroneous. However, he has alleged that all these applicants were not served. We fail to understand as to how could he swear the present affidavit on behalf of all the applicants. So far as applicant No.3- Digvijay Singh is concerned, he has been duly served as respondent No.7 in S.L.P.(C) No.18435 of 1998 on June 1, 1999 and affidavit of dasti service has been sworn in by Shri H.S.Gaba, the Assistant Regional Manager of the appellant- U.P. State Road Transport Corporation and filed in the Registry along with duplicate copy of the notice which bears his signature. This was accepted by the Registry and now he has filed the present I.A. wherein he has averred that he has not been served. He has alleged that dasti notice was never served on him nor any acknowledgment was obtained from him. The allegations are absolutely false. His signature appears on the duplicate copy of the notice dated June 1, 1999. This was supported by affidavit of dasti service by Sh. H.S.Gaba, Assistant Regional Manager of the appellant- Corporation. Similarly, dasti service has been effected on the applicant No.1- Omaditya Verma on May 26, 1999 and the duplicate copy of the notice bears his signature. Applicant No.2- Smt. Santosh was duly served by registered post and acknowledgment due was signed by her on March 5, 1999. Applicant No.4- Pradeep Singh was served dasti and the duplicate copy of the notice which is annexed to the affidavit in support of dasti service bears signature with date.

So far as applicant No.5- Randhir Singh who was respondent No.1 in C.A.No.6717 of 1999 arising out of S.L.P.(C) No. 18436 of 1998 is concerned, he was duly served by registered post and acknowledgment due card was signed by him on March 5, 1999. Applicant No.6- Sanjeev Kumar who was respondent No.9 in C.A.No.6717 of 1999 arising out of S.L.P.(C) No.18436 of 1998 was served dasti and duplicate copy of the notice which is annexed to the affidavit in support of dasti service bears his signature with date.

Thus, on perusal of the affidavit filed in support of dasti service and the acknowledgment due cards, we are satisfied that all the applicants were duly served and the Registry has rightly reported in the Office reports. It was also submitted that after leave was granted, fresh notice should have been issued to the respondents. This contention of learned counsel for the applicants is absolutely misconceived. Proviso to Rule 11, Order XVI of the Supreme Court Rules, 1966 clearly provides that if the respondent had been served with the notice in the Special Leave Petition or had filed caveat or had taken notice, no further notice is required after the lodging of the appeal. Notices were served on all the applicants in the Special Leave Petitions i.e. S.L.P.(C) No.18435 of 1998 so far as applicant Nos. 1 to 4 are concerned and S.L.P.(C) No.18436 of 1998 so far as applicant Nos. 5 & 6 are concerned and they did not choose to appear and contest the proceedings. Therefore, no separate notice was required to be served on them after lodgment of the appeals. Hence, we are satisfied that all the applicants were duly served. Therefore, I.A.Nos.14-17 are misconceived and the same are dismissed. Consequently, I.A.Nos.18-21 which have been filed for grant of ad interim stay, fail and the same are dismissed.

No order as to costs.

JUDIS