

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

Civil Appeal No. 6712/2018
(arising out of SLP(C) No. 5611/2018)

BABU SEBASTIAN

Appellant

VERSUS

PREMKUMAR T.R. & ORS.

Respondents

With
Civil Appeal No. 6713/2018
(arising out of SLP(C) No. 18216/2018)

O R D E R

Leave granted in both the special leave petitions.

Heard Mr. Shyam Divan and Mr. Basavaprabhu S. Patil, learned senior counsel alongwith Ms. Bina Madhavan, learned counsel appearing for the appellant, Mr. Jaideep Gupta, learned senior counsel for the State of Kerala, Mr. Tushar Mehta, learned ASG for the respondent-University and Mr. Raju Ramachandran, learned senior counsel for the respondent no. 1, the original writ petitioner.

Ordinarily, the propositions raised in the judgments and answered by the High Court would have the potentiality to raise an interesting debate, but the initial submission advanced by Mr. Shyam Divan and Mr. Basavaprabhu S. Patil, learned senior counsel does not allow the Court to do so. This is because the High Court has passed the impugned judgment dated 22.2.2018 without hearing the appellant, in the exercise of a suo moto jurisdiction, after noticing that the original judgment dated 19.2.2018 had been passed placing reliance on an overruled judgment.

In view of the aforesaid, we allow the appeals, set aside both the impugned judgments and send the matter back

to the High Court restoring Writ Petition (C) No. 34453/2017 on the file of the High Court, for a fresh disposal. The parties shall appear before the High Court on 23.7.2018, and the High Court, after hearing counsel for the parties, will make an endeavour to dispose of the matter, which relates to the writ of *quo warranto*, as expeditiously as possible. There shall be no order as to costs.

.....CJI
[Dipak Misra]

.....J.
[A.M. Khanwilkar]

.....J.
[Dr. D.Y. Chandrachud]

New Delhi;
July 16, 2018.

ITEM NOS.39+46

COURT NO.1

SECTION XI-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition for Special Leave to Appeal (C) No. 5611/2018

(Arising out of impugned final judgment and order dated 19-02-2018 in WP(C) No. 34453/2017 passed by the High Court Of Kerala At Ernakulam)

BABU SEBASTIAN

Petitioner

VERSUS

PREMKUMAR T.R. & ORS.

Respondents

(IA 48154/2018-FOR PERMISSION TO TREAT ORDER DT. 22.2.2018 AS THE IO IN THE SLP AND PERMISSION TO RAISE ADDL. GROUNDS, IA 45040/2018- TO BRING ON RECORD THE ORDER DATED 22.2.2018 MODIFYING/REPLACING PARAGRAPHS IN THE IMPUGNED ORDER)

With

SLP(C) No. 18216/2018 (XI-A)

(IA 94694/2018-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 16-07-2018 This matter was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE A.M. KHANWILKAR
HON'BLE DR. JUSTICE D.Y. CHANDRACHUD

For Petitioner

Mr. Shyam Divan, Sr. Adv.
Mr. Basavaprabu S. Patil, Sr. Adv.
Ms. Bina Madhavan, Adv.
Mr. S. Udaya Kumar Sagar, Adv.
Mr. Mrityunjai Singh, Adv.
Ms. Swati Bhardwaj, Adv.
M/s. Lawyer's Knit & Co., AOR

For Respondents

Mr. Raju Ramachandran, Sr. Adv.
Mr. C.S. Rajan, Sr. Adv.
Mr. A. Raghunath, AOR

Mr. Tushar Mehta, ASG
Ms. Sakshi Kakkar, AOR
Ms. Khusboo, Adv.
Ms. Swati, Adv.

Mr. Jaideep Gupta, Sr. Adv.
Mr. G. Prakash, AOR
Mr. Jishnu M.L., Adv.
Mrs. Priyanka Prakash, Adv.
Mrs. Beena Prakash, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted in both the special leave petitions.

The appeals are allowed in terms of the signed order.

Pending interlocutory applications, if any, shall stand disposed of.

(Deepak Guglani)
Court Master

(H.S. Parasher)
Assistant Registrar

(signed order is placed on the file)