

(2024) 12 SC CK 0023

Supreme Court Of India

Case No: Miscellaneous Application Diary No(S). 39665 Of 2024 In Writ Petition (C) No. 429 Of 2020

Ajay Kumar Jain

APPELLANT

Vs

State Of Uttar Pradesh & Anr

RESPONDENT

Date of Decision: Dec. 9, 2024

Acts Referred:

- Constitution of India, 1950 - Article 32, 226

Hon'ble Judges: J.B. Pardiwala, J; R. Mahadevan, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

1. Delay condoned.
2. Application seeking permission to appear and argue-in-person is allowed.
3. This miscellaneous application is at the instance of the original petitioner of Writ Petition (Civil) No.429 of 2020.
4. In this miscellaneous application, the applicant has prayed for the following reliefs:-

A. To Direct the Hon'ble Distt. Judge, Agra; The S.S.P., Agra to grant protection to the applicant during the pendency of Civil appeal number 126/2021 pending before the Hon'ble Distt. Judge, Agra on 29th March,2022 and subsequent dates; and

B. pass such a order and directions as deemed fit and proper in the facts and circumstances of this case.
5. We take notice of the fact that the Writ Petition (Civil) No.429/2020 came to be disposed of vide order dated 6-8-2021 in the following terms:-

The petitioner, who appears in person, seeks a two-fold direction under Article 32 of the Constitution:

(i) A direction to the first respondent to devise a mechanism for enforcing court orders; and

(ii) A direction to the District Judge to dispose of the proceedings which have been initiated by the petitioner for breach of the order which enures to his benefit,

2. The wider relief which has been sought by the petitioner in (i) above cannot be entertained in these proceedings under Article 32, However, insofar as the specific grievance of the petitioner is concerned, we direct that the application, Contempt Application No 26 of 2016, which has been filed by him complaining of a breach of the order enuring to his benefit may be disposed of expeditiously, if it has not already been disposed of, within a period of three months from the date of receipt of a

certified copy of this order.

3. We clarify that we have made no observations on the merits of the issues which are sought to be raised in the contempt proceedings.

4. The writ petition is accordingly disposed of.

5. Pending application, if any, stands disposed of.

6. Thus, while disposing of the main matter, this Court observed that in so far as the wider relief which was prayed for by the applicant " herein,

could not have been granted in proceedings under Article 32 of the Constitution of India. However, this Court proceeded to issue directions to the

District Judge to dispose of the contempt application No.26/2016 filed by the applicant herein expeditiously.

7. We have heard Dr. Ajay Kumar Jain appearing in-person.

8. Dr. Jain brought to our notice that in pursuance of the directions issued by this Court, referred to above, his contempt application No.26/2016 was

heard and the same was allowed. Against such order, the contemnor went in appeal and his appeal is also dismissed vide order dated 11-11-2024.

9. His grievance is that despite all the aforestated developments, he has not been able to achieve any positive result in his litigation,

10. Today, he apprehends threat to himself and his family members at the end of the contemnor.

11. This Miscellaneous Application on the face of it is not maintainable in law.

12. It is high time that this Court says something on the practice of the litigants filing miscellaneous applications in disposed of proceedings and that too

after a period of 5 years, 7 years, 10 years.

13. These miscellaneous applications which are being filed on daily basis have something to do with fresh cause of action that might have arisen with a

very remote connection with the main proceedings.

14. No miscellaneous application is maintainable in a writ petition to revive proceedings in respect of subsequent events.

15. In fact, the Court has no jurisdiction to entertain such application as no proceedings could be said to be pending before it. When proceedings stand

terminated by final disposal of the writ petition be it under Article 32 of the Constitution or Article 226 of the Constitution before the High Court, it is

not open to the Court to re-open the proceedings by means of a miscellaneous application in respect of a matter which provided a fresh cause of

action. If this principle is not followed, there would be confusion and chaos and the finality of the proceedings would cease to have any meaning.

16. In the recent past, a co-ordinate bench of this Court observed the following in *Jaipur Vidyut Vitran Nigam Ltd, and Others vs. Adani*

Power Rajasthan Ltd. and Another reported in 2024 SCC OnLine SC 313:-

“We felt it necessary to examine the question about maintainability of the present application as we are of the view that it was necessary to spell out the position

of law as to when such post-disposal miscellaneous applications can be entertained after a matter is disposed of. This Court has become functus officio and does not

retain jurisdiction to entertain an application after the appeal was disposed of by the judgment of a three-Judge Bench of this Court on 31.08.2020 through a course

beyond that specified in the statute. This is not an application for correcting any clerical or arithmetical error. Neither it is an application for extension of time. A post disposal application for modification and clarification of the order of disposal shall lie only in rare cases, where the order passed by this Court is executory in nature

and the directions of the Court may become impossible to be implemented because of subsequent events or developments. The factual background of this

Application does not fit into that description.”

(Emphasis supplied)

17. Thus, this Court made it abundantly clear that a miscellaneous application filed in a disposed of proceedings would be maintainable only for the purpose of correcting any clerical or arithmetical error. The Court further clarified that a post disposal application for modification or clarification of the order would lie only in rare cases where the order passed by this Court is executory in nature and the directions of the Court may have become impossible to be implemented because of subsequent events or developments.

18. The Registry shall not circulate any miscellaneous application filed in a disposed of proceedings unless and until there is a specific averment on oath that the filing of the miscellaneous application has been necessitated as the order passed in the main proceedings being executory in nature and have become impossible to be implemented because of subsequent events or developments.

19. The Registry shall insist from every applicant who intends to file any miscellaneous application in a disposed of proceedings for such a declaration as above on solemn affirmation.

20. If the applicant appearing in-person has an apprehension that the contemnor is likely to cause any harm to him or any of his family members, it is open for him to file a writ petition before the territorial High Court under Article 226 of the Constitution and seek appropriate relief in that regard.

21. This Miscellaneous Application stands rejected with liberty to the applicant appearing in-person to avail appropriate legal remedy before the appropriate forum in accordance with law.

22. Application for appeal against Registrar's order is also rejected.

23. If any writ petition is filed by the applicant before the High Court, seeking protection the High Court may look into it in accordance with law at the earliest.

24. Pending applications, if any, also stand disposed of.