

(1966) 08 AHC CK 0017**Allahabad High Court****Case No:** Civil Misc. Application No. 49 of 1966 in Second Appeal No. 2815 of 1961

Haji Mohd. Shafi

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision: Aug. 8, 1966**Acts Referred:**

- Civil Procedure Code, 1908 (CPC) - Section 151

Citation: AIR 1968 All 167**Hon'ble Judges:** S.S. Dhavan, J**Bench:** Single Bench**Advocate:** S.B.L. Gour, for the Appellant; S.N. Kakker, for the Respondent**Final Decision:** Dismissed**Judgement**

@JUDGMENTTAG-ORDER

S.S. Dhavan, J.

This is an application for a re-hearing of the second appeal. The only ground is that counsel's name was not printed in the cause list. But it is conceded that all the other particulars were given in the list -- the names of the parties, the number of the case, and the name of the appellant's counsel. A copy of the extract of the cause list has not been filed. Learned counsel argued that a counsel is entitled as of right to have his name printed in the cause list and if a name is not so printed, he can claim a re-hearing on the ground that he had no notice of the date of hearing. I cannot agree. The cause list is printed by the Bar Association. The office of this Court puts up a list in the evening containing full particulars of every case to be heard on the following day. The applicant has not alleged in his affidavit that the list put up by the office omitted the name of Mr. Kakkar. Furthermore, the application is beyond time by 539 days and there is no satisfactory explanation for this delay.

2. Lastly, the judgment appears to be correct on merits. At any rate, learned counsel was not able to point out any error in it. He frankly conceded that he was pressing

the application on the ground of want of notice to the counsel and had not considered the merits of the judgment. In my opinion, an applicant who asks for the restoration of a case on the ground that it has been decided against him without notice must satisfy the court that there has been a miscarriage of justice and should establish a *prima facie* case that a re-hearing is likely to result in a different decision. The Court is not bound to restore the case if it is satisfied that its decision is sound and will be confirmed on re-hearing. In such circumstances the re-hearing will be a farce and a waste of time.

3. The application is rejected.