

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.1494/2018
(ARISING FROM SLP (C) NO.2388/2018)

ARUN MAAN & ORS.

APPELLANT(S)

VERSUS

STATE OF UTTAR PRADESH & ORS.

RESPONDENT(S)

J U D G M E N T

KURIAN, J.

Leave granted.

2. In the nature of order we propose to pass, it is not necessary to issue notice to the respondents, since, in any case, the matter will have to be contested on merits before the High Court.

3. We find that in the High Court also, no notice was issued to the parties while dismissing the writ petition. The impugned order reads as follows:-

"Having heard learned counsel for the petitioners, we find that the petitioner had earlier filed writ petition before the Delhi High Court which was dismissed as withdrawn by order dated 21.04.2015 and 07.12.2015. Thereafter the petitioner has filed writ

petition before this Court. In our opinion the petitioner has approached the Court belatedly. There is a delay of more than five years in approaching this Court. Dismissed on the ground of laches."

4. The order, by which the appellants withdrew their cases before the Delhi High Court dated 21.04.2015 reads as follows:-

"After some arguments, counsel for the petitioners seek leave to withdraw these writ petitions with liberty to challenge the letter dated 15.11.2010 issued by the Regional Transport Authority, Agra whereby the said Authority has taken a decision that all the 81 licenses were fake licenses.

Reserving the said liberty to challenge the legality of the said letter issued by the Assistant Divisional Transport Officer of Regional Transport Office, Agra Region, the present writ petitions are dismissed as withdrawn."

5. The order dated 07.12.2015, referred to by the High Court in the impugned order, reads as follows:-

"Petitioner in person. At the first call, counsel for the petitioner was also present. Petitioner submits that he wishes to withdraw present writ petition in view of

the order dated 21.4.2015 passed by this Court in W.P.(C) 6358/2014 and other connected matters.

Accordingly, petition stands dismissed as withdrawn in view of above."

6. It may be seen that the High Court of Delhi reserved the liberty to the appellants, while withdrawing the writ petition to challenge the orders, which are now mentioned before the High Court of Allahabad. Therefore, it cannot be said that there is delay of more than five years, while filing the writ petitions. It appears that the Writ Petitions have been filed within five months, apparently after obtaining the orders dated 21.04.2015 and 07.12.2015.

7. Therefore, the impugned order is set aside and the matter is remitted to the High Court for considering it afresh.

8. Needless to say that the same may not be dismissed on the ground of delay and on the ground that the appellants had once approached the High Court of Delhi.

9. The appeal is, accordingly, disposed of.

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

11. There shall be no orders as to costs.

12. The Registry may communicate this order forthwith
to the High Court concerned.

.....J.
[KURIAN JOSEPH]

.....J.
[MOHAN M. SHANTANAGOUDAR]

NEW DELHI;
FEBRUARY 02, 2018.