

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**ORDINARY ORIGINAL CIVIL JURISDICTION****WRIT PETITION (L) NO. 2163 OF 2016**

Navniit Tarachand Kkhosla

... Petitioner

Versus

Union of India & 10 Ors.

... Respondents

....

Mr. Nedumpara i/b. Mr. R.R.Nair, for the Petitioner.

Mr. Sanjay Udeshi a/w Mr. Akshay Udeshi i/b. M/s Sanjay Udeshi & Co. for Respondent No.2.

Ms. Mallika Tally i/b. M/s S. Mahomedbhai & Co. for Respondent No.9.

Mr. Anil Singh, ASG for Union of India.

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**CORAM: DR. MANJULA CHELLUR, C.J.
AND M.S.SONAK, J.**Date of Reserving the Order : **03rd OCTOBER 2016**Date of Pronouncing the order : **06th OCTOBER 2016****P.C.:**

1. We have heard Mr. Nedumpara, learned Counsel for the petitioner, Mr. Anil Singh, ASG for Union of India, Mr. Sanjay Udeshi and Ms. Mallika Tally, learned Counsel for respondent Nos. 2 and 9. The petitioner whilst making it clear that this is not a Public Interest Litigation, seeks the following reliefs.

“a) declare that right to information having been well recognized to be an integral part of the right to life within the meaning of Article 21 of the Constitution, so too Articles 14 and 19 thereof, for the said Articles are to be read together, video-recording of Court proceedings of this Hon'ble Court, nay, for that matter all Courts and Tribunals in the country, including the Supreme Court of India and High Courts, and telecast thereof, where such telecast is in public interest, is his enforceable fundamental right, unless such recording and telecast is not possible for any rational reason such as the difficulty to make it operational or the cost involved;

b) issue a writ of mandamus or any other appropriate writ, order or direction to the respondents herein to take adequate steps and measures to introduce the system of video recording the proceedings of the Hon'ble Supreme Court of India, Hon'ble High Court of Bombay and all the subordinate courts and tribunals within India as an authentic record of the proceedings, allow the copies of the said records to be issued to the public on demand paying of the costs, allow the court proceedings to be telecasted by the media, and also allow the same proceedings to be uploaded to the internet; and if the said prayer is not admissible and maintainable for whatever reason as this Hon'ble Court may find proper; and

In the alternative and without prejudice to the above:

c) allow litigants to the proceeding to video and/or audio-recording of the Court proceedings at their own cost and effort and issue directions to the respondents not to interfere in any way to such non-intrusive efforts, declaring that there is no illegality

or misdemeanor in such recording; and

d) pass any such further and other orders as the nature and circumstances of the case may warrant.”

2. The Division Bench of this Court (Coram: S.C.Dharmadhikar & G.S.Patel,JJ.) by their concurring judgments and orders have dismissed Criminal Application No.1240 of 2015 in Criminal Appeal No.951 of 2015 instituted by one Indur Kartar Chhugani and Writ Petition No.1587 of 2015 instituted by one Sunil Gupa seeking similar reliefs.

3. Upon attention of Mr. Nedumpara being drawn to the judgments and orders dated 07th January 2016, Mr. Nedumpara, whilst admitting that he is aware of the same, since, he had appeared for the petitioner in Writ Petition No.1587 of 2015, nevertheless submitted that since the present petitioner was not a party to the earlier proceedings, neither the principles of *res judicata* nor the principles of any estoppel apply to the present petitioner in maintaining the present petition for substantially the same reliefs. Mr. Nedumpara also submitted that the observations in paragraph 55 of the judgment delivered by G.S.Patel, J., in fact, support the proposition advanced by the petitioner in the present

case.

4. We have considered the submissions made by learned Counsel for the parties. We have also perused the various averments in the petition. We are satisfied that the issues raised in this petition are substantially covered by the judgments and orders dated 07th January 2016, referred to earlier. Even Mr. Nedumpara did not contest the proposition that the judgment and order dated 07th January 2016 delivered by our coordinate Bench, is required to be accorded precedential value, though, he contended that the principles of *res judicata* or estoppel will not apply.

5. The observations in paragraph 55 of the said judgment and order read thus:

“55. Neither Dharmadhikari J nor I suggest that there can never be video recordings at all. We do not advocate any such absolute or blanket ban. We just do not support these proposals for absolute and compulsory recording; and we most resolutely do not approve of any ‘live’ telecasts. In a given case, a video recording for that particular case, or for one particular day, may be necessary. There is no need to fear the technology itself. But it requires the consent of all, lawyers, litigants and the Judge. Each one has a complete veto. Sitting singly, I myself have allowed video recording in at least one trial. I found it necessary in that case because the principal witness had a speech impediment. Both sides agreed on the

proposal. None of those proceedings were, however, televised. The day's recordings were kept securely in Court and were not accessed except in Court. The only use we made, together, was for reference, to correct the day's transcripts. In three other cases, I have used a videoconferencing link to complete a long-delayed trial where the witnesses in question were overseas and could not travel to India. That, too, was by consent. In one custody dispute, I spoke with the child over Skype. But what of it? None of this was with a view to any of the so-called 'benefits' that Mr. Nedumpara and Mr. Chugani extol before us. All of it was directed to a single end: the needs of that particular case. Not the needs of the general public to be entertained. These are Courts, not stages and sets and props from The Truman Show. This is a judicial proceeding of the utmost solemnity, not The Hunger Games."

6. The observations are quite clear. On the basis of the same, it can not be said that the petitioner has made out any case for grant of any of the reliefs prayed for by him in this petition.

7. For the aforesaid reasons, we dismiss this petition. On this occasion however, there shall be no order for payment of costs.

CHIEF JUSTICE

(M.S.SONAK, J.)