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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 4309/2016 & CM APPLs. 18144-18145/2016

MATHEWS J NEDUMPARA

..... Petitioner

Through: Petitioner in person.

versus

THE SUPREME COURT OF INDIA AND ORS Respondents

Through: Mr. Sanjay Jain, ASG with Mr. Jasmeet Singh, Mr. Vidur Mohan, Mr. Srivats Kaushal, Mr. Astha Sharma and Ms. Gayatri Aryan, Advocates for UOI.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

ORDER

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13.05.2016

Since respondents No.2 and 5 are not legal entities, the same are deleted from the array of parties.

It is pertinent to mention that petitioner who appears in person submits that the judgments of the Supreme Court in *Judges-1*, *Judges-2*, *Judges-3* and *Judges-5*, namely, *S.P. Gupta v. Union of India*, AIR 1982 SC 149; *Supreme Court Advocates-on-Record v. Union of India*, (1993) 4 SCC 441; *In re Special Reference 1 of 1998*, AIR 1999 SC 1 and *The Supreme Court Advocates-on-Record Association and Another v. Union of India & Ors.*, Writ Petition (Civil) No. 13/2015 decided on 16th October, 2015 respectively are *per incuriam*.

Petitioner states that though he had sought a declaratory relief to the said effect, the Registry of this Court had erroneously not listed the petition till the said relief was deleted. He stated that the petitioner was entitled to the aforesaid declaration, especially as the petitioner, i.e, Supreme Court Advocate on Record in the case decided on 16th October, 2015 had no *locus standi* to file the writ petition.

In the opinion of this Court, the arguments advanced by the petitioner are untenable in law. The Supreme Court in ***South Central Railway Employees Cooperative Credit Society Employees Union vs. B. Yashodabai and Others, (2015) 2 SCC 727*** has held as under:-

“14. We are of the view that it was not open to the High Court to hold that the judgment delivered by this Court in South Central Railway Employees Coop. Credit Society Employees' Union v. Registrar of Coop. Societies [South Central Railway Employees Coop. Credit Society Employees' Union v. Registrar of Coop. Societies was per incuriam.

15. If the view taken by the High Court is accepted, in our opinion, there would be total chaos in this country because in that case there would be no finality to any order passed by this Court. When a higher court has rendered a particular decision, the said decision must be followed by a subordinate or lower court unless it is distinguished or overruled or set aside. The High Court had considered several provisions which, in its opinion, had not been considered or argued before this Court when CA No. 4343 of 1988 was decided [South Central Railway Employees Coop. Credit Society Employees' Union v. Registrar of Coop. Societies. If the litigants or lawyers are permitted to argue that something what was correct, but was not argued earlier before the higher court and on that ground if the courts below are permitted to take a different view in a matter, possibly the entire law in relation to the precedents and ratio decidendi will have to be rewritten and, in our opinion, that cannot be done. Moreover, by not following the law laid down by this

Court, the High Court or the subordinate courts would also be violating the provisions of Article 141 of the Constitution of India.

16. We do not want to go into the arguments advanced by the learned counsel appearing for the respondents before the High Court for the simple reason that it was not open to them to advance any argument which would run contrary to the judgment delivered by this Court in *South Central Railway Employees Coop. Credit Society Employees' Union v. Registrar of Coop. Societies* [*South Central Railway Employees Coop. Credit Society Employees' Union v. Registrar of Coop. Societies*]. In our opinion, the High Court did something which would be like setting aside a decree in the execution proceedings.”

(emphasis supplied)

Consequently, this Court is of the view that present writ petition is not maintainable. Accordingly, the writ petition and applications are dismissed.

MANMOHAN, J

MAY 13, 2016

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