

08.03.2024
Court No. 13
Item Nos.8 & 9
AP

**FMAT 381 of 2023
With
CAN 1 of 2023
With
CAN 2 of 2023
Channel B Entertainment
Vs.
Sri Sumit Mondal and Ors.**

**With
FMAT 382 of 2023
With
CAN 1 of 2023
Channel B Entertainment
Vs.
Sri Sumit Mondal and Ors.**

Mr. Saumyen Datta
Mr. Sudhir Kumar Sadhukhan

... for the Appellant.

Mr. Sujit Bhattacharya
Mr. Mihir Das
Mr. Suman Chatterjee
Mr. Biswajit Mukherjee

... for the Applicant.

1. Recall of the order dated 17.10.2023 passed in FMAT 381 of 2023, CAN 1 of 2023 with FMAT 382 of 2023, CAN 1 of 2023 has been sought.

2. It is repeatedly asserted by the learned advocate for the applicant that postal article was never served on his client.

3. From para 5 of page 5 of the application it is clearly evident that not only did the applicant had notice of the appeal but had also approached the High Court Legal Services Committee for appointment of the advocate.

4. It further appears from the documents disclosed in Court by the parties that the applicant was served notice of the appeal and the listing of the matter before the Bench on 17.10.2023 by email dated 11.10.2023.

5. It is pursuant thereto that the applicant had approached the High Court Legal Services Authority for appointment of advocates and a ld. Advocate was appointed on 13.10.2023. The said advocate however did not represent the applicant on the 17th of October 2023. It is not known as to whether the advocate was contacted or briefed by the applicant. The application is silent on this.

6. The absence of the applicant on the said day is attributed to the ailment of his father, who is stated to have died thereafter.

7. This Court notices that the pleadings in the application are inconsistent and contradictory. A deliberate attempt has been made to mislead this Court.

8. After receiving the notice of the appeals by email, the applicant respondent could have easily replied to the mail asking for copies of the pleadings in the appeal.

9. It further appears from the submissions of learned counsel for the respondent in the application being the appellant in the appeal that the postal article was duly notified to the applicant but not claimed by

him. The postal article with endorsement is taken on record.

10. In view of the aforesaid approbation and reprobation and clear attempt to mislead this Court, the prayer for recall of the order dated 17.10.2023 is rejected.

11. The application being CAN 2 of 2023 is dismissed.

12. There shall be no order as to costs.

13. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Supratim Bhattacharya, J.)