

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-65-2024 (O&M)

Date of Decision : 08.01.2024

The Manager Vice Chancellor, Central
University of Haryana and Anr.

...Petitioners

VERSUS

Dharmender Kumar

...Respondent

CORAM : HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Puneet Gupta, Advocate for the petitioners.

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SUDEEPTI SHARMA, J. (Oral)

1. The present petition under Article 227 of the Constitution of India has been preferred by the petitioners for setting aside the impugned orders dated 04.12.2023 (Annexure P-21) and dated 21.12.2023 (Annexure P-24) passed by the learned Civil Judge (Jr. Division) Gurugram.
2. Vide impugned order dated 04.12.2023 (Annexure P-21), learned Civil Judge (Jr. Division), Gurugram, dismissed the application for staying the proceedings on the ground that no order of this Court for staying the execution of the award under question was placed before it.
3. A perusal of order dated 04.12.2023 shows that there is no infirmity in the same and the same is affirmed.
4. So far as order dated 21.12.2023 (Annexure P-24) is concerned, Judgment-debtor is directed to appear in person before the Court on the date fixed i.e 09.01.2024 without giving any reason for the appearance of Judgment-debtor in person. Even otherwise, impugned order dated 21.12.2023 (Annexure P-24) is against the judgment passed by the Hon'ble Apex Court in Civil Appeal Nos.23-24 of 2024, decided on

03.01.2024, wherein Hon'ble Apex Court in Para 46 has concluded as under:-

“46. In a nutshell, the conclusions reached in this Judgement are as follows:

a. The High Court did not have the power to direct the State Government to notify Rules proposed by the Chief Justice pertaining to post-retiral benefits for former Judges of the High Court. The Chief Justice did not have the competence to frame the rules under Article 229 of the Constitution. Further, the High Court, acting on the judicial side, does not have the power to direct the Government to frame rules proposed by it on the administrative side.

b. The power of criminal contempt could not be invoked by the High Court against officials of the Government of Uttar Pradesh on the ground that the application for recall of the First Impugned Order was 'contemptuous'. The actions of the officials do not meet the standard of both 'criminal contempt' and 'civil contempt.

c. The conduct of the High Court in frequently summoning government officials to exert pressure on the government, under the threat of contempt, is impermissible. Summoning officials repeatedly, instead of relying on the law officers representing the government or the submissions of the

government on affidavit, runs contrary to the scheme envisaged by the Constitution.

d. The SOP on Personal Appearance of Government Officials in Court Proceedings framed by this Court in Para 45 of this Judgment must be by all courts across the country. All High Courts shall consider framing rules to regulate the appearance of Government officials in court. after taking into account the SOP which has been formulated above.

5. In view of the above, the present petition is partly allowed and impugned order dated 04.12.2023 (Annexure P-21) is affirmed whereas order dated 21.12.2023 (Annexure P-24) is set aside.
6. Pending applications, if any, also stand disposed off.

January 8, 2024
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(SUDEEPTI SHARMA)
JUDGE

Whether speaking/non-speaking : Speaking
Whether reportable : Yes/No