

Kalyan Banerjee

Vs

Mohd. Iqbal and Others

Civil Appeal No. 279(NL) of 1980

(A. C. Gupta, D. A. Desai JJ)

06.02.1980

JUDGMENT

1. Special leave granted.

2. By Order dated September 7, 1979 the Calcutta High Court discharged the Rule issued on Writ Petition C. R. 7686(W) of 1978 which was filed in a representative capacity. The Order reads :

It is stated by Mr. P. N. Mukherjee, learned Advocate for the petitioner that he has instruction not to proceed with the Rule. The Rule is discharged.

Let the file be kept on record.

3. According to the appellant before us the said writ petition was allowed to be discharged without any notice, knowledge or consent of the other parties concerned. The appellant who was one of the persons interested in the matter applied to the High Court for recall of the order discharging the Rule which according to him "jeopardised not only the interest of the petitioner but other workmen also". That application was disposed of on January 16, 1980 as follows : "No order."

4. Mr. H. K. Puri, learned counsel appearing for respondent 5, who was the petitioner in the writ petition disposed of by the High Court says that he has instruction to state that his client was pressurised not to proceed with the writ petition. In these circumstances we think that the application filed by the appellant before the High Court should be disposed of by a speaking order.

5. Accordingly we allow the appeal, set aside the Order of the High Court dated January 16, 1980 and direct the High Court to dispose of the application made to it by the appellant before us by a speaking order with notice to all the parties concerned. There will be no order as to costs of this appeal. It is expected that the application before the High Court will be disposed of at an early date. Any prayer for interim relief made before the High Court by the applicant, it is hardly necessary to add, will be considered by the High Court on merits.

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