

Devi Lal and Another

Vs

Mohan Prasad and Another

I.As. Nos. 1-3 of 1996 In Contempt Petition No. 148 of 1995 In SLP (C) No. 12300 of 1991

(K. Ramaswamy, Faizanuddin, G. B. Pattanaik JJ)

09.05.1996

ORDER

1. The petitioners pray in these petitions, among others things, to recall our order dated 8-1-1996. They say that the counsel who appeared for them did not inform the result and the undertaking they were required to give to vacate the premises. They were not served with the dasti service in the contempt proceedings and, therefore, they were unaware of the proceedings that took place in this Court. Consequently, they were wrongly convicted. Their special leave petition against order of eviction upheld by the High Court was dismissed. Time, at request, was given to deliver vacant possession after expiry of the time and written undertaking was given. It is too much to accept such contentions. It is not in dispute that Mrs. Gyan Sudha Misra, counsel appearing on their behalf had filed the SLP. It is not their case that they made enquiry of the result of the case in this Court. It would be normal practice, unless the contrary is proved, that the counsel who appeared for the petitioner duly would intimate the result of the order passed by this Court. Under these circumstances, this Court cannot investigate into the fact whether the counsel for the petitioner had communicated the order or not. It is not their case that they have vacated the premises after the SLP came to be dismissed by this Court after expiry of the given period. The postal service of notice in contempt petition has not been effected. Consequently, we directed service by dasti so that personal notice could be given to the petitioner by the respondents. An affidavit has been filed by Mohan Prasad, son of Dwarka Prasad, the respondent in the SLP and the petitioner in the contempt petition, wherein he has stated that he had taken the service personally to the respondent and sought to serve on them. They had declined to receive the notice. Thus, service of notice could not be effected through dasti. We do not find that any case is made out to recall the order directing them to undergo sentence of six months awarded in the contempt case.

2. All the IAs are accordingly disposed of.