

SUPREME COURT OF INDIA

Gulab Singh

Vs.

Union of India & Ors.

C.A.No.968 of 2008

(Altamas Kabir and J.M.Panchal, JJ.)

04.02.2008

ORDER

[Arising out of SLP(C)No.6926 of 2006]

1. Leave granted.

2. One Hari Singh Malhiyan, elder brother of the appellant, is alleged to have deposited 80 currency notes of Rs.1000/- denomination in his capacity as Karta of a H.U.F. with the State Bank of India, Parliament Street Branch, in view of the promulgation of the High Denomination Banks Notes (Demonetization) Ordinance, 1978. Subsequently, he filed an application for recovery of the said amount, but since the same was rejected, he filed Civil Writ Petition No.1764/1980 for quashing the orders of rejection dated 2nd February, 1980 and 4th July, 1980, passed by the Additional Secretary, Ministry of Finance, Department of Economic Affairs and the Chief Currency Officer, Reserve Bank of India (Issue Department), New Delhi. A writ in the nature of mandamus was also sought for against the said respondents, to direct them to pay the petitioner Rs.80,000/- in exchange for the 80 currency notes of the denomination of Rs.1000/- each. The said writ petition was dismissed for default on 4th January, 2002, but the writ petitioner Hari Singh Malhiyan did not take any steps to restore the same. Subsequently, the present appellant filed an application for impleadment and restoration of the said writ petition which was dismissed. Without pursuing the matter further, the appellant filed a separate writ petition, being No.467 of 2006, inter alia, for a writ in the nature of mandamus commanding the respondents to release his 1/5th share in the said 80 currency notes of Rs.1000/- denomination with interest @ 18% from 1978 till final payment. The said writ application came up before the Delhi High Court on 20th January, 2006 when it appears that no one was present on behalf of the petitioner and the High Court found that the appellant's earlier application for impleadment had been dismissed. Having also found that the appellant had not filed his claim on behalf of the H.U.F., the High Court held that the appellant could not at that stage claim that the currency notes in question belongs to the H.U.F. On that reasoning the High Court dismissed the writ petition and it is against such order of dismissal that the appellant has filed the special leave petition.

Having heard learned counsel of the respective parties and having seen that the earlier writ petition filed by the elder brother of the appellant had been filed in his personal capacity and also noticing that the appellant herein has filed a separate suit for partition wherein the said sum of Rs.80,000/- is also included, we are of the view that no interference is called for in the present appeal since the appellant would be at liberty to press his claim with regard to the said amount in the suit itself.

3. In that view of the matter, we dismiss the appeal, but we also observe that it will be open to the appellant to urge the points taken herein in the pending suit. There will be no orders as to costs.