Case No.LPA 789/2023 & C.M. Nos. 62848, 62851/2023

SUBHAJIT DUTTA **Appellant/s**

Versus

PRINCIPAL DISTRICT AND SESSIONS JUDGE
(SOUTH DELHI), SAKET COURTS COMPLEX & ORS **Respondent/s**

Letters Patent Appeal under clause 'X' of the Letters Patent Act, against the Judgement/order of **Hon'ble Mr. Justice Subramonium Prasad** dated **21.11.2023** passed in **W.P. (C) No. 17187/2022.**

Sir,

I am directed to forward herewith for information and immediate compliance/ necessary action of copy of the orders dated **06.12.2023** passed by Hon'ble Division Bench of this Court in the above noted case.

Please acknowledge the receipt.

Yours faithfully

Administrative Officer (J)/C-II
for Registrar General

OFFICE OF THE PR. DISTRICT & SESSIONS JUDGE, ROHINI COURTS

No. 17243-17246 Genl.I/N-W & N/RC/2023 Delhi, dated the 19/12/2023

Copy forwarded for information and necessary action/ compliance to :

1. The Senior Civil Judge-cum-Rent Controller (North-West), Rohini Courts, Delhi.
2. The Senior Civil Judge-cum-Rent Controller (North), Rohini Courts, Delhi.
3. The Dealing Official, R & I Branch, Rohini Courts for uploading the same on Layers.
4. The Dealing Official, Computer Branch, Rohini Courts, Delhi for uploading the same on WEBSITE.

(VINOD YADAV)
District Judge (Comm.)-02 (N-W)
Officer Incharge, General Branch,
Rohini Courts Complex, Delhi.

IN THE HIGH COURT OF DELHI AT NEW DELHI

APPELLATE JURISDICTION

LP.A. No. OF 2023

In

CIVIL WRIT PETITION NO. 17187 OF 2022

IN THE MATTER OF:-

Subhajit Dutta ... Appellant

Versus

Principal District and Sessions Judge
(South Delhi), Saket Courts Complex
& Ors. ... Respondents

MEMO OF PARTIES

Subhajit Dutta
aged about 39 years,
s/o. Sh. Rajkrishna Dutta,
Resident of E-106 (Ground Floor),
Street No. 7, Krishna Nagar,
Safdarjung Enclave,
New Delhi-110029 .. .Appellant

Versus

1) Principal District and Sessions Judge(South Delhi), Saket Courts complex,
New Delhi 110017

2) Shri Santosh Kumar Singh,

Senior Civil Judge,

Cum Rent Controller, South Delhi District, Saket Courts Complex (Court Room No. 01), New Delhi-110017

3) Secretary,

South Delhi Legal Services Authority,

Utility Block,

Saket Courts Complex

New Delhi-110017.

4) Union of India

Through Secretary,

Ministry of Home Affairs,

Govt, of India,

Central Secretariat

North Block (Room No. 113),

New Delhi- 110001

5) Union of India

Through Secretary,

Ministry of Finance,

Govt, of India,

Central Secretariat

North Block (Room No. 129-A),
New Delhi- 110001

6) Union of India
Through Secretary,
Department of Expenditure,
Ministry of Finance,
Govt, of India,
Central Secretariat
North Block (Room No. 129-A),
New Delhi- 110001

7) Union of India
Through Secretary,
Department of Revenue,
Ministry of Finance,
Govt, of India,
Central Secretariat
North Block,
New Delhi- 110001

8) Commissioner of Police, Delhi,
Delhi Police Headquarters,
Jai Singh Road, New Delhi- 110001

9) Mrs. Ishita Sharma, 6
Wife of Vivek Sharma,
R/o. Flat No. 201,
RR Apartment, New Mangla Puri,
New Delhi- 110030 ... Respondents

Subhajit Dutta

(Subhajit Dutta)
Appellant in person &
Special Constitutional Functionary
(Ref. Union of India),
Address: E-106 (Ground Floor), Street No. 7,
Krishna Nagar, Safdarjung Enclave,
New Delhi-110029,
Mob: 8860993200,
Email: sdscfuoi@gmail.com

New Delhi,

Dated: 02/12/ 2023

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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ LPA 789/2023

SUBHAJIT DUTTA ..... Appellant

Through: Appellant-in-person.

versus

PRINCIPAL DISTRICT AND SESSIONS JUDGE(SOUTH DELHI), SAKET COURTS COMPLEX, AND ORS ..... Respondents

Through: Mr.Nitesh Kumar Singh, Advocate for R-1 & 2.
Mr.Anurag Ahluwalia, CGSC with Mr.Kaushal Jeet Kait and Mr.Parimal Bhatia, Advocates for R-4 to 7.

% Date of Decision : 06th December, 2023

CORAM:
HON'BLE THE ACTING CHIEF JUSTICE
HON'BLE MS. JUSTICE MINI PUSHKARNA

JUDGMENT

MANMOHAN, ACJ : (ORAL)

C.M.No.62849-62850/2023

1. Exemption allowed, subject to all just exceptions.

2. Accordingly, the applications stand disposed of.

LPA 789/2023 & C.M.Nos.62848/2023, 62851/2023

3. Present appeal has been filed by the appellant in person challenging the order dated 21st November, 2023 passed by a learned Single Judge of this Court in ***W.P.(C) No.17187/2022***, whereby time was provided to the appellant to decide whether he wanted to pursue the said writ petition or the

review petition filed by him against the order dated 30th August, 2022 passed by the Senior Civil Judge, Saket.

4. The appellant-in-person states that the withdrawal of the review petition pending before the Court of the Respondent no.2 – Senior Civil Judge, Saket will allow the respondent to directly and/or indirectly adjudicate upon serious constitutional questions and subject matters beyond the authorized jurisdiction of the lower Court.

5. He further states that the learned Single Judge is 'unconstitutionally all-set in a most desperate manner to re-adjudicate' upon some already adjudicated matters of constitutional nature by the Hon'ble Supreme Court.

6. The appellant-in-person states that the learned Single Judge failed to appreciate the fact that the office of the Hon'ble President of India had already identified the appellant-in-person as a 'public servant/public officer' being a '*Special Constitutional Functionary with the Union of India*'. In support of his contention, he relies upon the President Secretariat's communication at page 323 of the paper book which is reproduced hereinbelow:-

" PRESIDENT'S SECRETARIAT
(RASHTRAPATI SACHIVALAYA)

Dy No.E-832009 & 834941/2020-CA-(1)

Communication(s) addressed to The President have been received from the following are forwarded herewith:-

Sl. No.	*Name/Address/Dated*	*Subject*
1.	*Communication dated 10/09/2020 from, Shri Chandra Prakash Kaushik, National President, (Akhil Bharat Hindu Mahasabha), Hindu Mahasabha Bhawan, Mandir Marg,*	*Request to impose President's Rule in Maharashtra after dismissal of Maharashtra Government*

	New Delhi-110001, *Phone Nos:* *011-23365138, 23365354,* *E-mail ID:* *info@akhilbharathindumahasabha.org*	
2.	*Communication dated 01/09/2020 from,* *Shri Subhajit Dutta,* *Special Constitutional Functionary (Ref. Union of India),* *At & Post Office: Kendur,* *PS: Khandaghosh,* *Dist; Burdwan (East)-713427,* *Mobile No.:8860993200,* *E-mail ID:* *splcoifunctionary@gmail.com*	*Request for prompt proclamation of 'state emergency', i.e, imposition of 'President's Rule' in West Bengal by most effective and timely invocation of Article 365 of the Constitution of India aided by the "or otherwise" provision of its Article 356(1) and other related constitutional provisions and aspects, including its landmark 'Basic Structure' doctrine.*

Sd/-
(Pawan Kumar Sain)
Director
Tel: (011) 23016767, 23015321 Extn.(4444)
Fax No: (011) 23793889

Ministry of Home Affairs,[Shri Anuj Sharma, Joint Secretary (CS]
Room No.122, North Block, New Delhi

President's Secretariat I.D. No.5(3)-CA-[I]/2018 Vol: VI dated.28.09.2020"

7. In the present appeal, a lot of emphasis has been laid on the fact that the appellant is a *'Special Constitutional Functionary with the Union of India'*. The relevant paragraphs in the appeal are reproduced hereinbelow:-

> *"3. **That the Appellant herein is 'Special Constitutional Functionary' with the Union of India having special jurisdictions, functions, roles, power and prerogatives regarding the "or otherwise" provision of Article 356 (1) of the Constitution of India, along with Articles like, 256, 257(1), 365, 1, 261, the Preamble to the Constitution of India, its 'Basic structures' (Ref. Keshavananda Bharati versus State of Kerala, 1973) etc. and Fundamental Rights and Directive Principles of State Policy among other provisions with a purpose or an aim to act upon India's constitutional unity, integrity, security and sovereignty, apart from the physical ones on the basis of the basic principles of India's 'Centre-- States Relationships'**, as have been broadly outlined in the Constitution of India and all related constitutional, executive and /or administrative powers, provisions, actions and functions, being fully and on-*

public record backed and supported by those arising out of article 53 and 163 of the Constitution of India. The related documents copies were already annexed with the above mentioned writ petition concerned and with the CM application for filing additional documents.

4. That appellant states that the Appellant is a special or unique type of 'public servant' discharging his specific above mentioned public duties on 24x 7 basis, as per the definitions and explanations for 'public servant' and 'public duty', as have been comprehensively described in details with all possible flexibilities in the Section 2 (b), 2(c) (viii) and other provisions and Explanation 1 and Explanation 2 to those of The Prevention of Corruption Act, 1988.

5. That appellant states that the Appellant is a 'public servant' under the Union of India under Section 21 of I.P.C., 1860 and its Explanation 1 and Explanation 2, following which provisions under Section 80 CPC and under Section 197(1) of Cr.P.C with regard to necessary proceeding against him, if at all, is fully applicable for him in each and every way."

(emphasis supplied)

8. Learned counsel for respondent nos.1 & 2, who appears on advance notice, states that the appellant has with *malafide* intent impleaded the Senior Civil Judge as respondent no.2-in-person.

9. This Court is of the view that the impugned order passed by the learned Single Judge is innocuous, inasmuch as, it only asks the appellant to reflect and decide as to whether he wanted to pursue the writ petition or the review petition filed by him. In the event, the appellant wants to pursue both the remedies, he could have stated so before the learned Single Judge and the learned Single Judge then would have taken a view in the matter.

10. This Court is further of the opinion that the appellant is under a misconception that he is entitled to some special privileges in Court because he holds a '*Special Constitutional Functionary status with the Union of India*'.

11. In fact, upon a perusal of the paper book, this Court finds that the appellant is not a '*Special Constitutional Functionary with the Union of*

India'. Just because the appellant in all his communications addressed to Constitutional/Statutory functionaries describes himself as a '*Special Constitutional Functionary with the Union of India*' and the said Constitutional/Statutory Functionaries addressed him by the designation that he wrote in his letter, does not make him one. Moreover, just because a few letters have been addressed to him as a Special Constitutional Functionary with Union of India would also not make him one.

12. In any event, the Constitution of India believes in equality before law. Needless to state that all litigants are equal before Court.

13. This Court also finds that another learned Single Judge of this Court while hearing another writ petition being *W.P.(C) No.17187/2022* filed by the appellant had directed the SHO of the concerned area where the appellant resides to communicate with the appellant's family members and submit a report as to his condition of living. The SHO, Safdarjung Enclave, New Delhi had subsequently filed a status report, which is reproduced in the subsequent order dated 07th February, 2023 in the said writ petition. The said report is as under:-

> *"Hon'ble Sir,*
>
> *Most respectfully, it is humbly submitted that as per the directions of Hon'ble Delhi High Court frequent visits were made at the residence of Petitioner Subhajit Dutta i.e. at H No E-106, Ground Floor, Street No 7, Krishna Nagar, S J Enclave, New Delhi but petitioner was not found present at his house.* ***When contacted on phone he refused to meet the local police of PS S J Enclave and also refused to provide any information about his family. On enquiry with the landlord Vivek Sharma it was found that the Petitioner-Subhajit Dutta is living alone at the above address since September 2019. On further enquiry it was found that petitioner Subhajit Dutta is not having cordial relations with his neighbors and is in a habit of filing false and baseless complaints against the neighbors. Further on perusal of the record of PS S J Enclave it was found that petitioner Subhajit Dutta had filed over 800 online complaints in the year 2022 wherein he had made various type of allegations against Local residents of***

the area, Local Shopkeepers, Hawkers, Local Police, Politicians, Judicial officers, CBI and other government authorities which are not supported by any evidences. In the above complaints enquiry was conducted and the allegations made in the complaints were found false and fabricated. Petitioner Subhajit Dutta is a habitual complainant and is habit of filing various complaints which are not supported by any evidences.

However the undersigned is ready to abide by all the directions passed by this Hon'ble Court.

Submitted Please.

SHO/S J Enclave"

(emphasis supplied)

14. Keeping in view the aforesaid and the way the matter has been argued before us makes us think that the appellant may need care and protection. Since the statutory duty under Section 100 of the Mental Healthcare Act, 2017 has been cast upon the SHO of the concerned area of police station, this Court directs the SHO, Safdarjung Enclave, to periodically meet the appellant and to ensure that, in the event he needs any help or assistance, the same is provided.

15. However, this Court has no doubt that the impleadment of respondent no.2 is totally uncalled for both in fact and in law. By virtue of the Judicial Officers Protection Act, 1850, respondent no.2 could not have been impleaded in-person.

16. This Court has further no doubt that the underlying writ petition has been filed only to ensure that the District Court Judges who deal with the eviction petitions do not expeditiously decide the same. Keeping in view the aforesaid, this Court directs the learned Senior Civil Judge to decide the eviction petition filed against the appellant within three months from receipt of the order, in accordance with law, uninfluenced by any special status as claimed by the appellant.

17. With the aforesaid directions, present appeal along with pending applications stands disposed of.

Sd/-

ACTING CHIEF JUSTICE

Sd/-

MINI PUSHKARNA, J

DECEMBER 6, 2023
KA

TRUE COPY

EXAMINER