

Makkapati Nagaswara Sastri vs S.S. Satyanarayan on 18 September, 1980

Equivalent citations: AIR1981SC1156, 1981CRILJ617, (1981)1SCC62, 1981(13)UJ118(SC), AIR 1981 SUPREME COURT 1156, 1981 (1) SCC 62, 1981 SC CRI R 68, 1980 CRIAPPR(SC) 358, 1981 SCC(CRI) 111, 1981 UJ (SC) 118, 1981 CHANDLR(CIV&CRI) 85, (1978) SC CR R 68, (1981) SIM LC 128

Author: R.S. Sarkaria

Bench: O. Chinnappa Reddy, R.S. Sarkaria

JUDGMENT

R.S. Sarkaria, J.

1. This appeal is directed against an order dated 20th March, 1973 of the High Court of Andhra Pradesh whereby it accepted a reference made by the Addl. Sessions Judge, West Godavari at Elura under Section 435 read with Section 438 of the CrPC with the recommendation that the order of Addl. First Class Magistrate, Elura in Cri. M.P. No. 163 of 1971 refusing to give direction to the respondent to hand over. all the records, accounts, properties, cash etc. of Sahakara Parapati Sangham, Pragadavaram, to the petitioner be set aside and revised. It appears from the impugned order that no notice of the date of hearing was issued to the respondent or his counsel. A note appears to have been added to the impugned order later which reads as follows :

It is true that the case has been disposed of without hearing the counsel for the respondent as he could not appear at the time of the hearing because his name was not printed in the cause list. But this is a revision case where the respondent is not entitled to be heard as of right. Having regard to the facts of the case, I do not think any review of the order already passed is necessary.

2. This view taken by the High Court is manifestly contrary to the audi alteram par tarn rule of natural justice which was applicable to the proceedings before the High Court does not deserve to be maintained. Accordingly, we set aside that order and send the case back to the High Court with the direction that it should dispose of Cri.R.No. 411 of 1972 with in two months from the receipt of a copy of this order, after hearing both the parties.

3. The appeal is disposed of in terms of the above order.