

<p>Parties Involved:</p>

Appellants: Five individuals

Respondent: Mahabir

Allahabad High Court

Nyaya Panchayat, Jokha Khas

State

<p>Facts:</p>

An order of stay was passed by the Allahabad High Court on September 2, 1963, staying proceedings pending before the Nyaya Panchayat, Jokha Khas, district Deoria.

The case was adjourned to December 25, 1963.

An urgent copy of the order was applied for and obtained on the same day.

The Nyaya Panchayat was absent on December 23, 1963.

The order was signed by three Panchas, Phagu Parsad, Jagat Dubey, and Badri Yadav.

A document purporting to be an affidavit was attached to the order.

Affidavits were filed in the High Court by Baldeo Prasad, Sarpanch, and Mahabir.

The affiliation of the affidavits was not proper, but the Panchayats told Mahabir to get it verified in Tehsil.

<p>Evidences:</p>

Telegram: Mahabir claims that an application was presented before the Nyaya Panchayat immediately after the receipt of the telegram, but the High Court did not rely on this fact.

Affidavits: Filed by Baldeo Prasad, Sarpanch, and Mahabir, but the affiliation was not

proper.

Order sheet: Contained inadequate evidence.

Telegram: Not attached to the application.

<p>Arguments:</p>

The High Court disbelieved the explanation of the Panchas given before it.

The High Court drew an adverse inference from the fact that the reasons for not accepting the prayer for stay were not recorded.

The learned counsel for the state contends that the facts should not be reappreciated.

<p>Conclusions:</p>

The High Court passed the order deliberately to by-pass the court.

The court quoted with approval the following passage from the Contempt of Court: "It is not necessary that the order had been served upon the party against whom it has been granted."

The High Court should not have drawn an adverse inference from the fact that the reasons for not accepting the prayer for stay were not recorded.

There is no evidence that the judicial officer had knowledge of the order of the High Court.

