

SURESH SRIVASTAVA & ORS.

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v.

SUNDEEP BHUTORIA

(Civil Appeal No. 2086 of 22)

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MARCH 21, 2022

**[DINESH MAHESHWARI AND ANIRUDDHA BOSE, JJ.]**

*Public Interest Litigation: Instant matter was registered as PIL by High Court – Therefore, it ought to be dealt with as a non-adversarial litigation – Respondent in the instant appeal, who is said to have brought certain facts to the notice of the High Court, is, otherwise, standing in the capacity of a disputant qua the appellants – That being the position, the observations made in paragraph 17 of the order impugned, where the High Court has permitted the respondent to assist the Court and thereby has practically assigned him the role of an amicus, do not appear compatible with the requirements of a PIL – Therefore, paragraph 17 of the impugned order is annulled – In other words, the matter is left open to be dealt with as a PIL; and all the relevant aspects of the matter are left open for the examination by the High Court with the assistance of amicus curiae, who has also been appointed in terms of paragraph 18 of the order impugned.*

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CIVIL APPELLATE JURISDICTION: Civil Appeal No. 2086 of 2022.

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From the Judgment and Order dated 17.02.2022 of the High Court of Delhi at New Delhi in Letter Patent Appeal No.126 of 2022.

Pallav Shishodia, Ms. Garima Prashad, Sr. Advs., Surjendu Sankar Das, Ms. Tanya Tikiya, Advs. for the Appellants.

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Gopal Shankaranarayanan, Sr. Adv., Ashok Kumar Jain, Avneesh Garg, Mrs. Meenakshi Jain, Bijoy Kumar Jain, Advs. for the Respondent.

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A The following Order of the Court was passed :

**ORDER**

1. Leave granted.

B 2. Having heard Mr. Pallav Shishodia, learned senior counsel for the appellants and Mr. Gopal Sankaranarayanan, learned senior counsel for the sole respondent, we are not inclined to consider interference in the core of the questioned part of impugned order dated 17.02.2022 (from paragraph 11 onwards), insofar as the High Court has considered it proper to direct registration of a Public Interest Litigation ('PIL') concerning the association in question, i.e., Indian Federation of United Nations Association, particularly having regard to the *prima facie* observations of the High Court, indicating the reasons for registering such a PIL after disposal of the main matter involved in LPA No. 126 of 2022.

D 3. Learned senior counsel for the appellants has attempted to make several submissions as regards the stand of appellants and that the dispute between them and the respondent is pending in Civil Suit No. 554 of 2019 in the Court of Additional District Judge-3, South District, Saket Courts, New Delhi. However, we are of the view that all such submissions and all the relevant facts and factors which, in the *prima facie* opinion of the High Court require clarification, ought to be projected before the High Court. Thus, we leave it open for the appellants to make all the appropriate submissions before the High Court as regards their response to the observations in the order impugned as also their propositions/objections.

F 4. Even when we are not inclined to interfere with the matter at this stage, while leaving it open for the appellants to make all the relevant submissions before the High Court, we are of the view that when the High Court has registered the matter as a PIL, it ought to be dealt with as a non-adversarial litigation.

G 5. In this context, noticeable it is that the respondent of the present appeal, who is said to have brought certain facts to the notice of the High Court, is, otherwise, standing in the capacity of a disputant *qua* the present appellants. That being the position, the observations made in paragraph 17 of the order impugned, where the High Court has permitted the respondent to assist the Court and thereby has practically assigned

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him the role of an *amicus*, do not appear compatible with the requirements of a PIL. A

6. Therefore, we are inclined to annul the said paragraph 17 of the impugned order. In other words, we leave the matter open to be dealt with as a PIL; and all the relevant aspects of the matter are left open for the examination by the High Court with the assistance of *amicus curiae*, who has also been appointed in terms of paragraph 18 of the order impugned. B

7. Subject to the observations foregoing, this appeal stands disposed of at this stage itself.

8. It goes without saying that we have not expressed any opinion on the merits of the case either way. C

Devika Gujral

Appeal disposed of.