

Karnataka High Court

Sri D Sudhakar vs Sri D N Jeevaraju on 15 November, 2010

Author: Mohan Shantanagoudar A.S.Bopanna

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DATED 11415 THE 157" my OF NOVEMBE*\$','

PRESENT...

THE HON'BLE MRJUSTICE Moi-:J';1VN:;S H}\NTsA.ANA60U\$§Até" .

THE HON'!-ZZLE MR.JUS'fi EE S.A».9«V.B£)1_)_L".!V\}';=1i E?v!a"Vu\$VVV k
THE HQMBLE NNA

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wnttv NOs.32574-32578/2o1o(caM-RES)

BETWEE'Ni.4' - M V

1. Di'«:§\$1,diçakarAA""'~-- -----
_Aged 52 years

2}' A\./énkaAta'fa:.fianappa
Aged,j'59. years

ss[s3;asG%u~;«:hatt: D.Shekar

. "ç.A'g'ed 44 years

4. Shivaraj S.Thangadgi
Aged 52 years

5. P.M.Narendra Swamy
Aged 57 years

All are Members of Legislative

Assembly _ A
R/at.Karnataka Legislativ"'a__Home

Vidhana Soudha
Bangalore. ' 3. . "...y,_;._PETITIONERS

(By Sri P.P.Rae;; I
Sri He4rriant::lra'l'Raj"& A5P.l3a;3gan'a'th, Advs.,)

1. D.N.JAee._yarvajV'u_ V'
Chief Whip' = -

Filjarathiya J'ana_t_ha Party

A "Karr\$ata'lka Legislative Assembly
' _''.(iclh.a'na'Sbudha
. -.B_a"r:gaVlQ'_r'e}'V-..~"

The Speaker
= A. ,K__arn'atal<a Vidhana Sabha
.V_Vi't;ihana Soudha
Bangalore.

3. C.T.Ravi
Member of Legislative Assembly
Karnataka Legislative Assembly
Vidhana Soudha

Bangalore.

(By Sri Sathyapai Jain, SeniorV=CoLs-nsei for-. " j
Sri M.B.Nargund & Sri Vivevk__S;--Reddy,_--v_Advs.,3 '
For R1, R3 1 g
Sri S.Vijaya Shankar, Se-n'~ior Cot:nsei.':--'or",

Sri C.Shashikanth, Adv_,_,_"fo_r R2)

This Mis_e'.W. isfiiied vseotion 151 of CPC
r/w. Articies.,,221:b: the 'Constitution of India,
praying to raise additional
grounds application as additional
groundsleaiorlgV""iMtLh--~.,;:t'h'e' grounds raised in main
petitionslvltto.sectlrelt--he'~~ends of justice.

having been heard, reserved for
12.11.2010, this day MOHAN

SH)L'\N'i7_Ai\i;4l'X'C'3A0UEZ)AR, J., made the following:-

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become necessary to bring on record all the facts and
grounds by raising additional grounds. It is
contended that no prejudice would be caused to"--t,he
respondents.

3. The respondents have opposv:ed.Vvtl:ie l application. According to the ' explanation put forth
cannot be""avc'eepteV£"«\$V'- instant application is belated.:._ifrom tl*1e':date tiling the writ
petitions; izrere not urged earlier the same is only 'would amount to altering the entire particularly,

in the circumstances; the petitioners had already addressed their arguments before the earlier Bench available pleading. It is further contended that the amendment and raising additional facts" and grounds cannot be made in a piecemeal fashion. The contents of the additional grounds WM sought to be urged were also referred before us to contend that the same cannot be permitted.

4. Having heard the rival contentions, a perusal of the materials on record shows that the sequence relating to the filing of petitions in a hurried manner cannot be ignored. The impugned order in writ petitions have been passed on 10.12.2010 and were moved for posting on 11.12.2010. Considering the nature of dispute and important questions of law and fact of the petitioners that due to the race against time, all the facts could not narrated and the relevant grounds could not be raised; will have to be accepted as a bona fide. It is no doubt true that the instant A is filed only on 29.10.2010. In our view, that alone should not disentitle the petitioners in it. Seeking to raise the additional grounds since the prayer in the said application even if accepted by this Court at this stage would not prejudice the respondents. The respondents in any event filed their objection statement to petitions which is the position even on the day and as such, it is not a case involving upshot, pleading after knowing the defence. It is contended on behalf of the petitioner that additional grounds are raised after the order of disposal of the WP. Nos. 32678 of 2010. But, the fact is that the said writs against a different order passed by the parties involved were different. Hence, additional grounds sought to be raised in the instant case, in any event would have to be ordered impugned herein and the writ petitions will not aid the petitioners nor will they prejudice the respondents. If the additional grounds are permitted to be raised at this stage, the respondents would have the opportunity of objecting to the same in their objection.

statement. On the other hand, all the parties would have the opportunity to put forth all their contentions by way of pleadings and merely petitioners would raise certain additional grounds to assail the impugned order. The same cannot be objected to at this stage as even the respondents to justify their action which are sought to the grounds which writ petitions.

"The order or we are of the considered opinion" that made in the instant application is liable to be allowed and the petitioners shall be permitted to raise the additional grounds in the application. While coming to the said conclusion, the position of law and the reasons assigned while disposing of the writs - Misc. W. 9995 / 2010 are also taken into consideration. Accordingly, Misc. W. No. 10529/2010 is allowed. The additional grounds I to XXXI in the application shall be incorporated. No further grounds in the writ petitions.

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