

STATE OF U.P. AND ORS. A

v.

MANISHA DWIVEDI AND ANR.

AUGUST 31, 2001

[SYED SHAH MOHAMMED QUADRI AND S.N. PHUKAN, JJ.] B

*Constitution of India, 1950 :*

*Article 136--Petition for special leave to appeal--Filed against interlocutory order passed in a writ petition pending before High Court-- Held, Supreme Court will not normally exercise its Jurisdiction under Article 136 in respect of an interlocutory order except in special circumstances to prevent manifest injustice or abuse of the process of Court--No special circumstances warranting interference found--Besides there is unexplained delay of more than one year in filing the petition--Petition dismissed-- Interlocutory order.* C

*Delay/Latches :*

*Petition for special leave to file appeal in Supreme Court--There being delay of more than one year in filing the petition--Petition not entertained.* E

CIVIL APPELLATE JURISDICTION : Special Leave Petitions (C) Nos. 11293-11294 of 2001.

From the Judgment and Order dated 2.9.99 and 12.1.2001 of the Allahabad High Court in C.M.W.P. No. 35983 of 1999. F

WITH

I.A. Nos. 4 and 5 of 2001.

Avadh Behari Rohatgi, Ashok K. Srivastava and Prakash K. Singh for the Petitioners. G

Dr. A.M. Singhvi, Manik Karanjawala, R.N. Karanjawala, Ms. Nandini Gore, Ankur Chawla and Hrishikesh Baruah for the Respondents.

The following Order of the Court was delivered :

A The special leave petitions are filed against the order of the High Court dated 2.9.1999 and 12.1.2001 (in fact it is found to be 12.1.2001). Notice was issued on the appeal leave petitions on 10.7.2001. The respondents filed IAs. for revoking the notice on the allegation that correct facts were not brought to the notice of the Court.

B Heard the learned counsel for the parties.

We are not inclined to consider these special leave petitions on merits for two reasons; first, notice was ordered on the basis, gathered from the documents filed in the special leave petitions, that the impugned order was passed on 12.1.2001; if that were to be correct there was no dealy in filing the special petitions and it was accordingly so observed. Now, it turns out that the impugned order was passed on 12.1.2000 and not on 12.1.2001 and on the material on record we are satisfied that it is not a case of typographical error. Thus, there is a delay of more than a year which remains unexplained and, therefore, the special leave petitions cannot be entertained. Secondly,

C the impugned order is only an interlocutory order and the Writ Petition is still pending. This Court will not normally exercise its jurisdiction under Article 136 of the Constitution in respect of an interlocutory order except in special circumstances to prevent manifest injustice or abuse of the process of the Court. We do not find any special circumstances warranting our interreferece in this case.

E

Interlocutory applications are allowed and the special leave petitions are dismissed accordingly.

R.P.

Petitions dismissed and IA's allowed.