

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

M.A. NO.1008 OF 2017

IN

APPEAL NO(S).94835 OF 2017

IN

PETITION FOR SPECIAL LEAVE TO APPEAL
(CIVIL) NO.17826 OF 2017

KAUSHELENDRA SINGH

...APPELLANT (S)
APPLICANT (S)

VERSUS

THE STATE OF UTTAR PRADESH
& ORS.

...RESPONDENT (S)

ORDER

1. The present Miscellaneous Application is wholly misdirected and lacks in bona fide. The issue raised by the applicant (petitioner in the High Court) in the writ petition before the High Court is that though he was not granted a licence and he had not deposited any amount he has

been penalized for not lifting the stock of country made liquor/alcohol. The High Court found the said contention to be incorrect and, therefore, dismissed the writ petition filed by him, *inter alia*, on the ground of lack of bona fides. The petition for special leave to appeal (No.17826/2017) against the order of the High Court dismissing the writ petition has also been dismissed by the order of this Court dated 28th July, 2017.

2. After dismissal of the Special Leave Petition, the present application for clarification/modification has been filed by the applicant/petitioner contending that in a decision rendered by a four judge Bench of this Court in Excise Commissioner, U.P. Allahabad and others vs. Ram Kumar and others¹ it has been held that there can be

1

(1976) 3 SCC 540

no recovery of excise duty on the unlifted quantity of liquor unless the same is authorized by the statute. The aforesaid point had not even been urged in the writ petition which had been decided on an altogether different issue, as already noticed.

3. It is on the aforesaid basis that we take the view that the applicant/petitioner has approached this Court by filing the present Miscellaneous Application for reasons not bona fide and to circumvent the procedure enjoined by the Supreme Court Rules for filing of a Review Petition which is required to be decided by circulation as opposed to a Miscellaneous Application in which an open Court hearing is granted.

4. For the aforesaid reasons, we dismiss the present Miscellaneous Application and impose costs of Rs.2,00,000/- (Rupees two lakh) on the applicant to be deposited in the account of the Supreme Court Legal Services Committee within four weeks from today.

.....,J.
(RANJAN GOGOI)

.....,J.
(NAVIN SINHA)

NEW DELHI
OCTOBER 13, 2017

ITEM NO.31

COURT NO.2

SECTION XI

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

M.A. NO.1008 OF 2017
IN
APPEAL NO(S) .94835 OF 2017
IN
PETITION FOR SPECIAL LEAVE TO APPEAL (CIVIL)
NO.17826 OF 2017

SRI KAUSHALENDRA SINGH

Petitioner(s)

VERSUS

THE STATE OF UTTAR PRADESH & ORS. Respondent(s)
(FOR ADMISSION and I.A. No.94835/2017-APPEAL AGAINST REGISTRAR
UNDER ORDER XV RULE 5)

Date : 13-10-2017 This application(s) was called on for hearing
today.

CORAM : HON'BLE MR. JUSTICE RANJAN GOGOI
HON'BLE MR. JUSTICE NAVIN SINHA

For Petitioner(s)

Mr. Ashutosh Garg, AOR

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

The Application is dismissed in terms of the signed order with costs of Rs.2,00,000/- (Rupees two lakh) on the applicant to be deposited in the account of the Supreme Court Legal Services Committee within four weeks from today.

[VINOD LAKHINA]

[ASHA SONI]

AR-cum-PS

BRANCH OFFICER

[SIGNED ORDER IS PLACED ON THE FILE]