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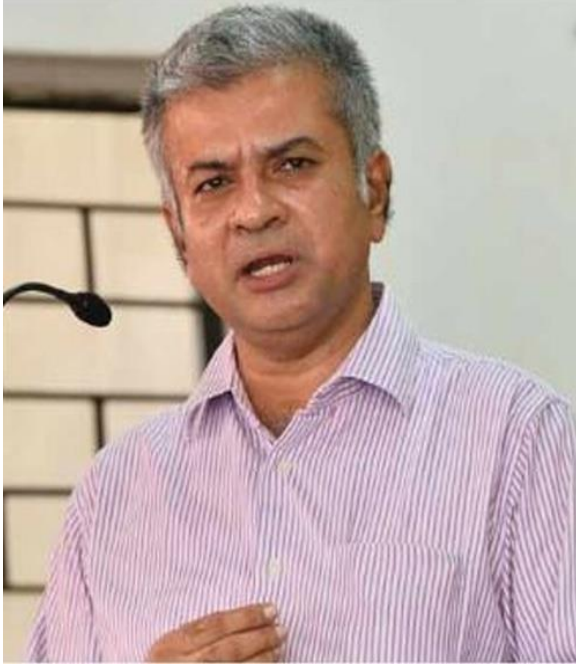
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## ***ABOUT US***

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you



# **Judicial Proceedings and Advocate's Conduct**

## **A Case Study of Mahabir Prasad Singh v. Jacks Aviation Pvt. Ltd.<sup>1</sup>**

By - Kumarappan M  
Sastra University

### **Abstract**

The case of Mahabir Prasad Singh v. M/S Jack Aviation, (AIR 1999 SC 287), decided on 13 November 1998, involved a dispute over possession of a building brought before the Additional District Judge, Tis Hazari, Delhi. The appellant sought recovery of possession based on admissions made by the respondent in their written statement. However, complications arose due to a boycott call by the Delhi Bar Association, leading to legal proceedings, including a transfer petition, a revision petition in the Delhi High Court, and ultimately reaching the Supreme Court. The Supreme Court emphasized the duty of advocates to attend trial proceedings, rejected the High Court's jurisdictional error in entertaining the revision petition, and directed the trial court to proceed according to law, highlighting the importance of upholding the integrity of the judicial process and maintaining professional conduct.

### **Keywords**

Mahabir Prasad Singh v. M/S Jack Aviation, possession dispute, Additional District Judge, Tis Hazari, Delhi Bar Association boycott, transfer petition, revision petition, Supreme Court, professional conduct, judicial integrity, jurisdictional error, trial proceedings, legal procedures.

### **Synopsis**

- Introduction
- Background of the case
- Transfer petition and court proceedings
- High court proceedings

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<sup>1</sup> AIR 1999 SC 287

- Supreme Court orders
- Legal principles established
- Judicial functions and advocate conduct
- Precedents and legal interpretations
- Conclusion
- References

### **Introduction**

- Case Name :Mahabir Prasad Singh v. M/S Jack Aviation
- Citation: (AIR 1999 SC 287)
- Date of the judgement : 13 November 1998
- Divisional Bench : S.Saghir Ahmad,K.T.Thomas
- Presiding judgment by K.T.Thomas - leave granted in Supreme Court
- Counsels – Naresh Kaushik and Ms Lalita Kaushik for appellant
- Arun Jaitley and Krishna Kumar (Caveator)),with him for Respondent

The case in question involves a dispute over the possession of a building, which was brought before the court of the Additional District Judge, Tis Hazari, Delhi. The appellant, seeking recovery of possession, relied on certain admissions made by the respondent in their written statement. However, complications arose when the respondent's counsel petitioned for the transfer of the case, citing a boycott call by the Delhi Bar Association. This led to a series of legal proceedings, including challenges in the Delhi High Court through a revision petition, ultimately reaching the Supreme Court for resolution. The case raises important issues regarding professional conduct within the legal profession, judicial independence, and the proper exercise of jurisdiction by higher courts.

### **Background of the case**

- Plaintiff initiates a lawsuit in the court of Additional District Judge, Tis Hazari, Delhi, seeking recovery of possession of a building.
- Defendant's counsel, a member of the Delhi Bar Association, files a petition seeking case transfer due to a boycott call by the association.
- The boycott call arises from a resolution passed by the association, leading to the defendant's



counsel abstaining from appearing in court

- Despite the judge dismissing the transfer application, the defendant files a revision petition in the Delhi High Court, causing trial delays.
- The Supreme Court intervenes, quashing the revision proceedings, and highlighting the need to prevent advocates from boycotting courts or demanding case avoidance based on personal preferences.

### **Transfer Petition and Court Proceedings**

- Defendant's Transfer Petition: The defendant, represented by counsel who was a member of the Delhi Bar Association, filed a petition requesting the transfer of the case from the court of Additional District Judge, Tis Hazari, Delhi. This petition was prompted by a boycott resolution passed by the Delhi Bar Association, leading to the defendant's counsel abstaining from appearing in court.
- Dismissal of Transfer Petition: The Additional District Judge dismissed the transfer petition, highlighting that there was no provision under Section 151 for transferring the case. Instead, the appropriate avenue for such a request was Section 24 of the Civil Procedure Code (CPC), which empowers the District Judge to consider transfer applications. Despite the dismissal, the trial proceedings continued, with written arguments being submitted on behalf of the plaintiff.

### **High Court Proceedings**

- Filing of Revision Petition: The respondent filed a revision petition before the Delhi High Court challenging the order dated May 21, 1998 passed by the Additional District Judge. This order dismissed the defendant's application seeking transfer of the case. The revision petition led to the stay of proceedings before the trial court.
- High Court's Actions: A single Judge of the High Court entertained the revision petition and ordered a stay of proceedings in the trial court. Despite the appellant's offer to have the case transferred to another court, the High Court adjourned the revision multiple times. Additionally, the High Court called for comments from the Additional District Judge concerning the transfer petition.
- Quashing of Revisional Proceedings: The Supreme Court ultimately intervened and quashed the revisional proceedings, emphasizing that the High Court had committed a jurisdictional error in entertaining the revision petition. The Court clarified that the order of the Additional District Judge was not revisable under Section 115(1) of the Civil Procedure Code.

- **Direction to Trial Court:** The Supreme Court directed the Additional District Judge, Tis Hazari, to proceed with the case according to law, effectively nullifying the stay of proceedings ordered by the High Court.
- **Analysis of High Court's Actions:** The High Court's decision to entertain the revision petition and adjourn the case multiple times was deemed erroneous by the Supreme Court. The Court emphasized the importance of not allowing advocates to stonewall judicial proceedings through boycotts or pressure tactics. Additionally, the Court underscored the duty of advocates to attend trial proceedings, highlighting the unprofessional conduct of the respondent's counsel in abstaining from court appearances.

### **Supreme Court Orders**

Summary of Supreme Court's Orders:

- **Quashing of Revisional Proceedings**
  - The Supreme Court quashed the revisional proceedings initiated by the respondent challenging the order dated 21.5.1998 passed by the Additional District Judge. The Court found that the High Court had committed a jurisdictional error in entertaining the revision petition.
- **Direction to Trial Court**
  - The Supreme Court directed the Additional District Judge, Tis Hazari, to proceed with the case according to law, effectively nullifying the stay of proceedings ordered by the High Court. The Court emphasized the importance of allowing judicial processes to run their course unimpeded by boycotts or pressure tactics.
- **Rejection of Plea for Change of Court**
  - The Supreme Court rejected the plea made by the respondent's counsel for a change of court. Despite the appellant having no objection to such a change, the Court refused to grant it, stating that a change of court cannot be allowed merely because both parties agree to it.
- **Key Points Emphasized by the Supreme Court**
  - Protection of Judicial Functionaries
  - Professional Conduct of Advocates
  - Importance of Mutual Respect

### **Legal Principles Established**

1. Duty to Proceed with Judicial Business
2. Professional conduct of Advocates
3. Reciprocal duty of respect
4. Limitation of High court's Revisional Power

[Section 115(1) of code of civil procedure]

Supreme Court in this case emphasize the importance of upholding the integrity of the judicial process, maintaining professional conduct by advocates, and ensuring mutual respect between the Bench and the Bar. Additionally, the Court clarified the limitations on the High Court's revisional power and underscored the duty of courts to proceed with judicial business during court hours without yielding to pressure tactics or boycott calls.

### **Precedent and legal interpretations**

Advocates' Strikes and Boycotts

The Supreme Court cited *Lt. Col. S.J. Chaudhary vs. State (Delhi Administration)*<sup>2</sup> to emphasize the duty of advocates to attend trial proceedings once they accept a brief. The court stressed that advocates' attendance at trial is essential and failure to do so constitutes a breach of their professional duty. Additionally, advocates are expected to act with professionalism and refrain from engaging in strikes or boycotts that obstruct the judicial process.

The case of *Ram Lal Vs. Madan Gopal & ors*<sup>3</sup> cited in the case because it highlights the importance of professional behavior and decorum expected from advocates during legal proceedings. In the cited case, the Supreme Court emphasized the significance of allowing parties the opportunity to address oral arguments through their counsel. By citing this case, the excerpt underscores the duty of advocates to uphold professional standards, which includes actively participating in legal proceedings on behalf of their clients and ensuring that all parties are given a fair opportunity to present their case.

### **Statutory provisions involved**

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<sup>2</sup> (1984) 1 SCC 722

<sup>3</sup> 1995 suppl.(4) SCC 655

1. Order XII Rule 6 of the Code of Civil Procedure<sup>4</sup> (CPC): This provision allows a party to apply for judgment based on admissions made by the other party in their written statement, thereby facilitating the expeditious disposal of cases.
2. Section 24 of the Code of Civil Procedure<sup>5</sup> (CPC): This section deals with the transfer of cases from one court to another within the same district for reasons such as convenience, impartiality, or expeditious disposal of the case.
3. Section 151 of the Code of Civil Procedure<sup>6</sup>(CPC): This section grants inherent powers to courts to make orders necessary for the ends of justice or to prevent abuse of the court's process.
4. Section 115(1) of the Code of Civil Procedure<sup>7</sup>(CPC): This section deals with the revisional jurisdiction of high courts and specifies the conditions under which a high court can intervene in lower court decisions.

### **Conclusion**

▪ In conclusion, the excerpt highlights the importance of upholding the dignity of the court and maintaining professional conduct, particularly by legal practitioners. Despite the appellant's genuine concerns about delays in the trial proceedings and his willingness to cooperate, the High Court's handling of the case was criticized for entertaining a revision petition that lacked legal merit. The Supreme Court emphasized that courts should not entertain petitions unless there is a genuine risk of injustice or irreparable harm to a party. Additionally, the Court rejected the plea for transferring the case to another court, reaffirming that such transfers should not be granted merely based on the parties' mutual agreement. Ultimately, the directive was issued for the trial court to proceed with the case according to the law, emphasizing the importance of adhering to legal procedures and respecting the judicial process.

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<sup>4</sup> THE CODE OF CIVIL PROCEDURE, 1908 ACT NO. 5 OF 1908 (Judgment on admission)

<sup>5</sup> THE CODE OF CIVIL PROCEDURE, 1908 ACT NO. 5 OF 1908 (General power of transfer and withdrawal)

<sup>6</sup> THE CODE OF CIVIL PROCEDURE, 1908 ACT NO. 5 OF 1908 (Saving of inherent powers of Court)

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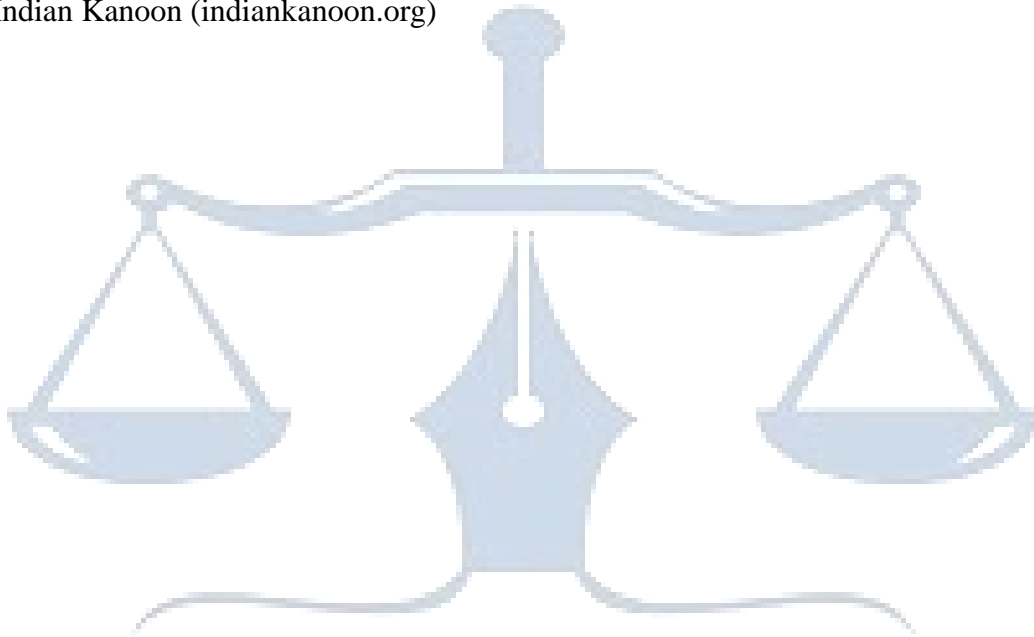
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