

**COURT No.1, ARMED FORCES TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI**

2.

**MA 309/2011 in TA 646/2009 (Writ Petition (Civil) No.12353/2005)**

<b>Ex Hav (GD) Nancha Ram Jat</b>	<b>..... Petitioner</b>
<b>Versus</b>	
<b>Union of India</b>	<b>..... Respondents</b>

**For petitioner** : Mr N L Bareja, Advocate  
**For respondents** : Mr S P Sharma, Advocate with  
Maj Deepak Ranvah, OIC Legal Cell

**CORAM:**  
**HON'BLE MR. JUSTICE VIRENDER SINGH, CHAIRPERSON**  
**HON'BLE LT. GEN. SANJIV LANGER, MEMBER (A)**

**ORDER**  
**07.03.2017**

Mr. Sharma learned counsel for Union of India on the instructions of Maj Deepak Ranvah makes a statement at the Bar that Union of India has filed an application under Article 142 of the Constitution of India for modification/clarification of judgment dated 05.07.2016 of the Hon'ble Supreme Court enclosed in Civil Appeal No. 8360/2010 under Article 142 of the Constitution of India carving out certain grounds including that Civil Appeal No. 10104/2011 filed by Union of India impugning the judgment dated 22.07.2010 of Armed Force Tribunal, Principal Bench arising out of the instant matters and tagged alongwith Civil Appeal No. 8360/2010 and other clubbed matters and also shown in the cause list of 05.07.2016 for pronouncement of judgment alongwith other cases is not shown to have been decided.

2. Mr. Sharma further states that primarily the issue cropped up in all the Civil Appeals which were clubbed together along with Civil Appeal No.10104/2011, was virtually the same with regard to the competence of the Commanding Officer for Summary Court Martial of an accused attached to his Unit and that the view taken by Hon'ble High Court of Delhi

has now been set aside in this regard, which has the bearing upon the Civil Appeal No.10104/2011 also on all counts as the judgment dated 22.07.2010 impugned in the said appeal is based on the judgment of the Delhi High Court on that particular point only.

3. Mr. Sharma also states that Union of India was under the impression that Civil Appeal No.10104/2011 which was clubbed with Civil Appeal No.8360/2010 and other matters of the similar nature, in fact has been heard alongwith the other appeals which were fixed for 05.07.2016 for pronouncement of judgment as indicated in the cause list of the said date.

4. Mr. Sharma, however, fairly admits that there is a delay at the end of Union of India for filing application for modification/clarification of the judgment dated 05.07.2016 passed in Civil Appeal No.8360/2010 (clubbed matters) as it has been now filed in the first week of March 2017 only, but at the same time prays that the issue being of competence of the Commanding Officer which has already been decided by the Hon'ble Supreme Court in clubbed matters, the instant execution application may be put on hold till the decision on the said application Mr. Sharma states that mentioning will be made before the Hon'ble Supreme Court for taking up the said application at the earliest under the present set of circumstances.

5. Under normal circumstances, we would have not given any further time to Union of India for compliance of the judgment dated 02.07.2010 for the reason that the instant execution application is pending before us since 2011 and that the applicant has not reaped the fruits of the said judgment till date, but for the aforesaid fact brought to our notice by Mr. Sharma at the Bar. We thus defer further consideration of the execution application for another six weeks'. List again on **24.04.2017**.

6. Union of India may not deposit the cost imposed vide our last order till the next date of hearing at least.

**(VIRENDER SINGH)**  
**CHAIRPERSON**

**(SANJIV LANGER)**  
**MEMBER (A)**

07.03.2017vkv