Court Admonishes Litigant for Making Judge 'Witness in the Case'

News & Updates • October 25, 2017

Delhi High Court takes grave exception to written reference by litigant to court observations at hearing not forming part of record of court . Highlights risk to "free debate" and judges' ability to "discharge their duties without fear". Parametric Technology Corporation (PTC) had addressed a legal notice to the plaintiffs for copyright infringement through use of pirated software in India. In response, the plaintiffs commenced proceedings for defamation, impleading also PTC's entire Board of Directors – based in the United States. At the hearing for framing issues in July 2017, the court had expressed concerns over inclusion of the entire PTC Board which raised questions regarding the plaintiffs' *bona fides* and denounced the manoeuvre as arm-twisting and suggested framing an issue on the point. These observations did not form part of the court record. At the next hearing, the plaintiffs made an application for framing an issue based on the observations that were made by the court at the previous hearing. The bench expressed displeasure at the move, noting sternly that while the plaintiffs took an adjournment on the previous date and did not allow the court to record its observations, they thought it fit to make an application attributing observations to the court. It emphasized that the forum is one of free debate and

> *"Judges have to discharge their duties without fear. No judge will be able to administer justice if he is made a witness in the case."*
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> *"If a judge is not able to ask the questions and seek clarifications, the rule of law will be in serious jeopardy."*

The bench also reiterated that under Article 215 of the Constitution of India, the High Court is a court of record. Only the order sheets can be read as proof of what transpired in court. Litigants have no right to selectively quote isolated observations by the court without reference to the context. The hearing on 2 August 2017 concluded with counsel for the plaintiffs issuing an unconditional apology on behalf of their clients and a direction to the registry to expunge all physical and digital records of the plaintiffs' application. *Mahesh Chandra & Anr v Parametric Technology Corporation Inc & Ors; before the Delhi High Court; order dated 2.8.2017*

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