

Appeal Case

Supreme Court Of California : F073777, F074544

IN THE SUPREME COURT OF UNITED STATES

MADHU SAMEER

Appellant and Plaintiff

V

SAMEER KHERA ET AL

Respondents and Defendants

AFTER THE DENIAL OF TWO PETITIONS FOR REVIEW BY THE SUPREME COURT
OF CALIFORNIA

Appeals F073777, F074544 from Fifth Appellate District

Judgments from Judges SIMPSON, KAPETAN

MOTION FOR PERMISSION TO FILE OVERLENGTH BRIEF

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TO the Honorable Elena Kagan, Justice of the United States Supreme Court and Circuit Justice for the Ninth Circuit:

I, am the Petitioner Madhu Sameer. I have prepared the concurrently filed Petition for Writ of Certiorari. The matter involves ongoing deprivation of Civil Rights in the State Court, over the past 18 years, fraud of over \$6,000,000 and consequential losses of over \$4,000,000 including child support arrears of over \$500,000 owed for more than 2 years to children residing in a different state (18 USC 228).

This fact rich case is related to two petitions filed earlier with this Court – 19-8609, and 19-8852. Each of these covered some aspect of the underlying litigation in the family Courts.

This Petition arises from denial of TWO (2) Petitions for Review from the Supreme Court of United States for Appeals F074544, and F073777

Instead of filing two different Petitions here in this Court, for judicial economy, I have combined these Petitions under Rule 12.4, for Writ of Certiorari because they address same or similar facts and concern themselves with ANTI SLAPP laws of California.

This is a complex case. There is a long history of the case spanning over 18 years. The background involves litigation in Santa Clara County, Fresno County, New Delhi, India, Fifth and Sixth Appellate District, Supreme Court of California, and Supreme Court of United States. Therefore, I have been unable to reduce the pagesize to 40 pages. Therefore I request that the Court grant me permission to file oversized brief of 106 pages.

Alternately, given the complexity, I request that the Court give me time to amend the Petition and refile it, preserving jurisdiction.

I also request that the Court rule on all the Petitions pending before this Court all together, so as to have a better picture of how brutally my rights were violated, repeatedly, and the extent of injuries inflicted on me.

JURISDICTION

This Court's jurisdiction is invoked under 28 USCS 1257(a).

BACKGROUND

This Petition arises from a civil suit 14CECG 03660, and 15 CECG00351 filed in 2014/2015 in Fresno County related to defendant SAMEER KHERA' Child Support obligations. The lawsuits sought declarative, injunctive relief, and damages from SAMEER KHERA, SUSAN BENETT, LEWIS BECKER, LENORE SCHREIBER, Six Attorneys from HECTOR MORENO & ASSOCIATES, and TC ZAYNER for Child Support related fraud and non payment of Court Ordered child support of over \$500,000 owed for over 18 years to Children residing in a different state. A finding of civil contempt in these cases under 18 USC 228, is predicated on nonpayment of over \$500,000 when the defendant is financially capable of paying, and a defendant can always avoid jail time by either paying

the amount owed, or by showing that he is incapable of paying. [*Turner v. Rogers*, 564 U.S. 431 (2011)].

Both civil cases were “fixed” by attorneys and Judicial officers, using various *Schemes & Artifices* to deprive me of my day in the court¹. Petitions for Writ of Certiorari 19-8609, 19-8852 and the Petition concurrently filed provide details of the state litigation.

The defendants are some well connected high profile people, some of them public officials. who have engaged in casefixing for the past 12 years in the family Court, conspiring to deprive me of over \$6,000,000 in property and support, in addition to the aforementioned Child Support. There are consequential damages of over \$4,000,000 such as attorney fee, losses, fines penalties, unpaid student loan, debts, and even involuntary bankruptcy, career loss, and medical injuries arising from such acts.

Support orders were made in 2003 in Santa Clara County, and had been registered in Fresno County in 2005 by Department of Child Support Services, Fresno, and thereafter, Santa Clara County was prohibited form making Child Support orders under Ca Fam Code 5601(a)² and (e)³, and Ca Fam 4065(c)⁴, which required the presence of a DCSS Representative.

In the months leading to 2006, KHERA and his attorneys bribed several professionals and at last 6 witnesses, who prepared false reports of his income, assets, and made at least 8 real estate properties, and 30 bank accounts disappear. My signatures were forged on documents/sale deeds to transfer assets worth millions of dollars to KHERA.

DAVILA’s and ELFVING’s Courts were statutorily prohibited from making Child Support orders under Fam 5601 (e). As Judges of family Courts, they had a gatekeeping function of a fiduciary, and were required to ensure equity, justice. They were not authorised to make unconscientious orders, nor were they authorised to make orders in clear absence of subject matter jurisdiction.

¹ The third complaint 14 CECG03709 had also been filed in 2014, but the Judicial Officers failed to adjudicate and have intentionally allowed it to vanquish.

² When the local child support agency is responsible for the enforcement of a support order pursuant to Section 17400 ,the local child support agency may register a support order made in another county [Fam 5601(a)]

³ Upon registration, the clerk of the court shall forward a notice of registration to the courts in other counties and states in which the original order for support and any modifications were issued or registered. No further proceedings regarding the obligor's support obligations shall be filed in other counties.[Fam 5601(e)]

⁴ A stipulated agreement of child support is not valid unless the local child support agency has joined in the stipulation by signing it in any case in which the local child support agency is providing services pursuant to Section 17400. The local child support agency shall not stipulate to a child support order below the guideline amount ...if the parent receiving support has not consented to the order [Fam 4065(c)]

On Jan 3, 2008, DCSS, fresno filed a Motion for Modification in Jan 4, 2008, assessing KHERA's income at **\$65,000 per month**, and had ordered him to pay \$8,180 in child support, and \$2047 in arrears payable monthly until exhausted. To illegally help KHERA evade child support payments, KHERA and his attorneys approached DAVILA, in Santa Clara County, filed a motion seeking an order that included an order for child support. Defendant KHERA and his attorney incited DAVILA, and he became embroiled in litigation. In violation of jurisdictional laws, child support and custody laws, he attempted to coerce me into accepting an agreement on child support, and when I did not accept such agreement, he made a series of unconscientious Judgments, characterised as Judgments of 2008. These were void for clear lack of jurisdiction, for excess of jurisdiction, and for fraud, fraud upon the court. They were classic examples of case-fixing. They violated child support state and federal laws.

Defendant SAMEER KHERA's attorneys were aware that the Judgments were unenforceable, and void, and had admitted this in the open court of COMMISSIONER DUNCAN in Fresno County. This agreement is recorded and is available with Family Court Services in Fresno County.

These orders could not be legally filed in Santa Clara County because it was statutorily prohibited [Fam 5601(e)] and Fresno, which had the lawful subject matter jurisdiction, never filed, or registered these orders, and refused to accept their validity. Defendants and his attorneys began threatening, intimidating and harassing me, blackmailing me, engaging in acts of domestic violence - stating that if I did not accept \$2,800 in child support, they would see to it that I never received a penny in support. Thereafter, defendant KHERA and his attorneys engaged in 12 years of meritless litigation since. Their meritless arguments constitute abuse of process. In 2014, Judge ALLEN HILL overturned these orders.

These Judgments of 2008, made on Feb 25, 2008, were subsequently implicitly overturned in 2014 by Judge ALLEN HILL of Fresno County who ignored them and made child support retrospective to Jan 3, 2008, after a protracted trial that lasted 14 Court days (28 half days) over a period of three years. However, defendants have refused to comply with these Orders also⁵.

There is no basis for ratifying these orders. Yet, DAVILA intentionally ratified them in 2010 and made additional orders, that were equally void. The Judgments of 2008 are void as a matter of law. But defendant KHERA's attorneys have advised him to refuse compliance with Fresno County orders of Judge ALLEN HILL.

Because DAVILA's orders were made in clear absence of jurisdiction, therefore he, along with others, is liable for my damages. Therefore, to conceal the alleged crimes, and to protect him from liabilities, and to protect the alleged mafia of expert professional who accept bribes to prepare false reports and provide false testimonies, the subsequent Judges in Santa Clara have intentionally refused to vacate these orders for the past 12 years.

⁵ Defendant KHERA has been advised by his attorneys to not comply with two Court orders made in 2003, Court order of 2004, Court order of 2006, Court order of 2008, 2011, 2013, 2014.

All efforts to have Santa Clara judges vacate these orders have failed, as the Judges in Santa Clara refuse to vacate these orders. KHERA now is a unintended beneficiary of a conspiracy to deprive me of due process under color of law, or of statutes. The goal of this conspiracy is to conceal the crimes of defendants, and to protect them from liabilities. Therefore, for 12 years, the Judicial officers have been conspiring to prevent a trial at all costs. This is achieved by using various *schemes and artifices* to deprive me of my day in the court.

Defendant KHERA is a Vice President in an internationally renown technology firm, with income ranging from \$500,000 – over \$1m per annum for the last 20 years. He has always had the ability to pay child support but he has been advised, aided and abetted by defendants to illegally evade Court Ordered child support payment. Every attempt made to secure these payments for the past 18 years, and has been sabotaged by attorneys and Judicial officials attempting to protect him and others.

I am not alone in alleging judicial corruption in these Courts, other women and children have been similarly treated by these Judicial officers, or others *like* these (See a blog from a well reputed non profit watchdog in Santa Clara County <https://www.janeandjohnqpublic.com/blog>)

The graveman of the complaint 14 CECG 03660 is that the defendant SAMEER KHERA (KHERA) corruptly influenced Judge DAVILA and ELFVING in 2008 who helped him in money laundering activities, to illegally evade child support payments, by making orders that were in clear absence of jurisdiction and in excess of jurisdiction. Since then, KHERA has engaged in immigration fraud, money laundering, tax evasion, contempt of Court, domestic violence, malicious prosecution, abuse of process, fraud, fraud upon the court etc to continue evading payment of court ordered child support.

The graveman of the complaint 15 CECG 00351 is that KHERA was aided and abetted by SUSAN BENETT, LEWIS BECKER, (BENETT & BECKER), LENORE SCHREIBER (SCHREIBER), TC ZAYNER (ZAYNER), HECTOR MORENO (MORENO), ANDREW WESTOVER (WESTOVER), RORY COETZEE (COETZEE), CONSTANCE SMITH (SMITH), RAECHELLE VELLARDE (VELLARDE), KAYLEIGH WALSH (WALSH). These parties, all high profile attorneys and one Judge, engaged in indictable offenses including cognizable felonies like bribery, forgery etc, and conspired between themselves to deprive me of my rights, and violated RICO for the past 18 years.

All litigation related to securing these Child Support Arrears was intentionally sabotaged by Judicial officers since, because, to admit DAVILA's and ELFVING's orders from 2008 were null and void would expose these, and other defendants to liability.

My complaint was not a SLAPP suit, but all defendants, except ZAYNER, filed ANTI SLAPP motions, arguing that their alleged conduct – of helping KHERA evade payments of Court Ordered Child Support - were protected under first amendment rights. These motions, and the motion for attorney fee under CCP 425.16 were granted as unopposed defaults, and the complaints were wrongfully dismissed by Judge SIMPSON and Judge KAPETAN as unopposed defaults, by excluding my opposition documents, or

by scheduling hearings and granting dismissal motions during my noticed unavailability⁶. I was sanctioned to an amount in excess of \$50,000 in attorney fee even though defendants had engaged in extensive billing fraud.

ZAYNER did not file an ANTI SLAPP suit. He filed a demurrer that was intentionally scheduled to be heard and was granted by Judge KAPETAN during my noticed unavailability as an unopposed default. The Judicial officers refused to set them aside. The dismissal, and the appeals have been orchestrated by employment of a string of *Schemes & Artifices* that are meant to deprive me of due process.

Petition must be granted because offenses alleged against these defendants are neither frivolous, nor are they deserving of constitutional protection and Judgements against me are in excess of Court's jurisdiction. Certiorari corrects excess of jurisdiction.

Petition alleges that ANTI SLAPP laws continue being used wrongfully by certain Judicial Officers to suppress, oppress, and silence legitimate claims. Granting of the ANTI SLAPP motion constitutes deprivation of our First Amendment Rights – the Right to Petition for Grievances. The use of these laws to deprive women and children of their rights to child support, and the use of these laws to sanction them into silence represents case-fixing, and a travesty of justice.

This conspiracy that began in 2007 to defraud me of a fair settlement has now morphed into a conspiracy to conceal the criminal offenses and case-fixing racket in the Family Courts. None of the conspirator has exited the conspiracy. There is a threat of continuity.

WHY PERMISSION TO FILE OVERSIZED BRIEF MUST BE GRANTED

The two underlying cases are fact rich, and concern litigation spanning almost 2 decades, in Santa Clara and Fresno County. This litigation began in Family Court of Santa Clara County, but due to defendant KHERA's refusal to comply with any and all Court orders, it spilled over to DCSS, Fresno, Civil Courts in Santa Clara and Fresno County, Fifth and Sixth Appellate Courts of California, Supreme Court of California, and Supreme Court of United States and two Courts in India. Among other things, the complaint involves international crime, money laundering, immigration fraud, bribery of witnesses, forgery of documents, and several crimes against United States. At issue are several matters of public interest, including attempts made by several judicial officers to conceal these crimes for 12 years, to unlawfully protect high profile defendants by depriving me of constitutional guarantees. Two police reports have also been filed in India, due to the alleged forgery, bribery of witnesses, and theft of jewelry and valuables of property held in India, as defendant KHERA used these methods to fraudulently transfer real estate, bank accounts,

⁶ Both Judicial Officers refused to grant me a continuation even though during the time the hearing was scheduled, I was relocating from US to Fresno with my children pursuant to an order from the Santa Clara Court.

and contents of safe deposit box from joint names to his own names. KHERA was not acting alone, his second ex-wife Snehal Devani and his attorneys aided and abetted him, advised him violation of multiple Court orders, also used my identity to forge my signatures on several of these documents. These parties engaged in meritless litigation and abuse of process for over 18 years. They violated and/or aided and abetted in violation of each and every order that was made during this process:

- a) Court orders of Sept 2003 – Restraining order prohibiting him from sale, acquisition, or transfer of community funds and assets, KHERA covertly sold millions of dollars worth of community assets without informing me and transferred real estates to his name by forging my signatures and bribing witnesses to testify, declare that his second wife, Snehal Devani, was Madhu Sameer. She then signed the property over to him in cashless transfer.
- b) Court order of Dec 2003 - Support orders. Defendant's attorneys advised him to violate these support orders/
- c) Court order of 2004 – Custody orders. Defendant's attorneys advised him to violate these support orders/
- d) Court order from DCSS – Child Support Arrears. Defendant's attorneys advised him to violate these support orders/
- e) Court orders of 2006 – Additional orders concerning Support and property. Defendant's attorneys advised him to violate these support orders/
- f) Court order of 2008 – Property orders. Defendant's attorneys advised him to violate these support orders/
- g) Court order of 2008 – Support & Arrears, Defendant's attorneys advised him to violate these support orders/
- h) Court order of 2011 – Child Support orders from Fresno. Defendant's attorneys advised him to violate these support orders/
- i) Court order of 2013 – Custody orders from Santa Clara County ordering Children to Attend Psychotherapy sessions after sexual abuse allegations. KHERA was required to share the costs of these sessions but was advised by his attorneys to violate these orders.
- j) Court order of 2014 – Ongoing Child Support payments and payment of arrears. Defendant's attorneys advised him to violate these support orders/

As a consequence of these violations, KHERA is delinquent on over \$500,000 in child support, payable to children residing in a different state, and along with his attorneys, has engaged in a spate of domestic violent, terrorising acts, blackmail seeking that I waive these arrears (With Court's permission, we relocated to New Zealand in 2015, to avoid domestic violence).

The acts which lead to filing of these lawsuits are very detailed, spanning several courts, counties over a period of over 18 years. I have attempted to make them concise, but have been unable to reduce them in size without compromising the integrity of the cause.

The Judicial Officers SIMPSON and KAPETAN dismissed my complaints using ANTI SLAPP statutes. The Appellate Courts also held that defendants' acts represented protected speech under First Amendment. This is a ridiculous proposition, because firstly, the graveman of the complaint are acts, not speech. Secondly, criminal acts, felonies, indictable offenses are not protected under the constitution. Thirdly, the Judgments against me were made thru procedural manipulations – they were all heard and adjudicated during my noticed unavailability, and made as unopposed defaults. In most cases I was not even served. Additionally, I was sanctioned to an amount of over \$50,000, presumably to silence me.

All this extrinsic fraud, and the involvement of Judicial officers in depriving me of my day in the court for the past 12 years reaffirms the allegations of conspiracy and casefixing. KHERA is now an unintended beneficiary of a conspiracy to protect the high profile defendants, especially DAVILA and ZAYNER, from liabilities.

Till date, I have been sanctioned to an amount of over \$250,000 by various Judicial officers – for seeking property division of marital assets, spousal support arrears of over \$1.5m, and Child Support arrears of 500,000.

The allegations, laws, and information about proceedings cannot fit in 40 pages. Therefore I request that the Court allow me to file an oversized brief of 106 pages.

This case is related to 19-8609, and 19-8852, and an Application for Stay has previously been filed requesting the Court to defer the ruling on that Petition until all other Petitions in this Court have been taken up. I request that this Petition be taken up concurrently with 19-8852, and 19-8609. Petition 19-8609 is a federal suit filed against 32 defendants for declarative and injunctive relief and damages, after all other avenues had been exhausted. These cases all arise from the same set of facts, but the arguments raised, damages sought, and the laws under which these were raised and sought vary. However, they are all concerned with deprivation of civil rights under section 1983, 1985, 1986, and casefixing under 18 USC 1962.

CONCLUSION

Supreme Court has cautioned Courts to not act impotent in the face of fraud and injustice [*Tirouda v. State, No. 2004-CP-00379-COA Mississippi, 2005; We decline to interpret our rules so as to render the defrauded court impotent to rectify this situation*].

The Court has a special obligation to construe *pro se* litigants' pleadings liberally [See also, United States v. Miller, 197 F.3d 644, 648 (3rd Cir. 1999); Poling v. K. Hovnanian Enterprises, 99 F.Supp.2d 502, 506-07 (D.N.J. 2000)]. When interpreting *pro se* papers, Court is required to use its own common sense to determine what relief that party either desires, or is otherwise entitled to. [S.E.C. v. Elliott, 953 F.2d 1560, 1582 (11th Cir. 1992)]. “*If the court can reasonably read the submissions, it should do so despite failure to cite proper legal authority, confusion of legal theories, poor syntax or sentence construction, or a litigant’s unfamiliarity with particular rule requirements.* [Boag v. MacDougall, 454 U.S. 364, 102 S.Ct. 700, 70 L.Ed.2d 551 (1982); Estelle v. Gamble, 429 U.S. 97, 106, 97 S.Ct. 285, 50 L.Ed.2d 251 (1976)].

I request that the Court grant me permission to file overlength brief of 106 pages. Great injustice will result, and I will suffer irreparable harm if my request is denied, as I may not be able to properly present my case before this Court.

Alternately, I request additional time to amend the complaint. The Court may, at its discretion, decide on size of the brief.

I also request that all the Petitions pending with this Court be concurrently heard.

Respectfully Submitted



Madhu Sameer, Petitioner, Pro Se

8/11/2020 (New Zealand)