

23-6985 ORIGINAL

Motion for Leave to proceed Informa Pauperis

NO. ____

Supreme Court, U.S.
FILED

DEC 23 2023

IN THE SUPREME COURT OF THE UNITED STATES OF THE CLERK

SUSMITA NAYAK
(Pro Se) Petitioner
v.

SUPERIOR COURT OF CALIFORNIA FOR
THE COUNTY OF CONTRA COSTA., ET AL.
Respondent,

On Petition for a Writ of Certiorari to the First Appellate District,
Division One Court of Appeal of the State of California

PETITION FOR A WRIT OF CERTIORARI

28 U.S.C § 1257 (a), 28 U.S.C. § 1331, 28 U.S.C § 2403(a), Rule 8.1007

State Court of Appeal District one Case No: A168881 with Exhibits
State Supreme Court of California Case No: S282443 with Exhibits
State Trial Court Appellate Division Case No: AP23-0019

Business Closed since Sep 28, 2023

Eviction Date: Sep 28, 2023; Auctioned: 3rd week of Nov 2023

Susmita Nayak (Pro Se)

Office address:

12893 Alcosta Blvd, Suite A,

San Ramon, CA 94583

Cell: 408-674-1935

RECEIVED

DEC 27 2023

OFFICE OF THE CLERK
SUPREME COURT, U.S.

QUESTION(S) PRESENTED

Whether there is a possibility of conflict of interest between the lower courts pertaining to the filed civil case categorization and corresponding court jurisdiction, will this be considered Cert worthy.

LIST OF PARTIES AND RELATED CASES

- Solicitor General of the United States of America,
- Department of Justice of the United States of America,
- Rob Bonta Attorney General of State of CA,
- Diana Becton, District Attorney of Contra Costa County,
- NFIB Small Business,
- Resource Partners LLC,

Superior Court of California for the County of Contra Costa

Trial Court Case No: MS23-0019

Case Name: Resource Partners LLC Vs. Susmita Nayak

Trial court Judgement order: Aug 14, 2023

Trial court case hearing Date: Aug 11, 2023 (e-recordings)

Ex-parte Application for Stay of Enforcement filed on Sep 18, 2023

Exparte Application for Stay of enforcement denied and

Eviction carried out at the premises on Sep 28, 2023

Appellate Court District One

Resource Partners LLC v. Nayak, No. A168825, Court of Appeal for the first Appellate district of California.

Judgement entered Oct 19, 2023 for transfer the case to Appellate Division of Trial court

Case No: A168881

Nayak v. The Superior Court of Contra Costa County

Real Party in Interest Resource Partners LLC

Extraordinary Writ of Mandate and Prohibition (Related Pending Appeal outcome) Filed Date: Oct 16, 2023

Judgement entered Oct 19, 2023 (Order to transfer the case to Appellate Division of Trial court)

Superior Court County of Contra Costa, Appellate Division

Case No: AP23-0019

Nayak v. The Superior Court of Contra Costa County

Real Party in Interest Resource Partners LLC

Petition for Extraordinary Writ of Mandate and Prohibition

Judgement entered Oct 26, 2023 order denying the petition.

Supreme Court of California

Nayak v. The Superior Court of Contra Costa County

Real Party in Interest Resource Partners LLC, No. S282443

Petition for review and application for Stay

Filed on Oct 26, 2023

Judgement entered Nov 15, 2023 order denying the petition.

TABLE OF CONTENTS

1. Prayer and Opinion Page 1
2. Index of Appendices....Page 2

APPENDIX A:

- a) Decision of State Courts of Appeals..... Pages 7-12
- b) Petition for Extraordinary Writ of Mandate and Prohibition
(Related Pending Appeal outcome).....Pages 13-56

APPENDIX B:

- c) Decision of Superior Court of Superior Court
of California of Contra Costa, Appellate Division...Pages 57-62

APPENDIX C:

- d) Decision of Supreme Court of California...Pages 63-64
- e) Petition for Review and application for Stay...Pages 65-93

3. Tables of Authorities.....Page 3
4. Jurisdiction.....Page 4
5. Constitutional and Statutory Provisions Involved...Page 4
6. Statement of the Case.....Page 4
7. Reasons for Granting the Petition.....Page 5
8. Conclusion.....Page 6

9. Motion for Leave to Proceed in Informa Paupe's (2 Pages)
10. Proof of Service (1 Page)
11. Statement of mailing (1 Page)

PRAYER

Petitioner Susmita Nayak, prays that the Supreme court grant a writ of certiorari to review the judgement of court below.

State Court of Appeal District one Case No: A168881 with Exhibits and order
State Trial Court Appellate Division Case No: AP23-0019 with order details
State Supreme Court of California Case No: S282443 with Exhibits and order

OPINION

The petition for a writ of certiorari with redacted copies for the public record is granted.

INDEX OF APPENDICES

APPENDIX A: State Courts of Appeals

a) Decision of Court of Appeal, First Appellate District

Case No: A168881 Filed on Oct 16, 2023

Decision date: Oct 19, 2023

b) Petition for Extraordinary Writ of Mandate and Prohibition

(Related Pending Appeal outcome)

Case No: A168881 Filed on Oct 16, 2023

APPENDIX B: Trial court Appellate Division

**c) Decision of Superior Court of Superior Court
of California of Contra Costa, Appellate Division**

New case no: AP23-0019

Order Denying Petition for Extraordinary Writ of
Mandate and Prohibition.

Decision Date: Oct 26, 2023.

APPENDIX C: Supreme Court of California

d) Decision of Supreme Court of California

Case No: S282443

Order denied for Petition for Review and application
for stay dated Nov 15, 2023

e) Petition for Review and application for Stay

Case No: S282443 Filed on Oct 26, 2023

TABLE OF AUTHORITIES

Frank KENDALL III, Secretary of the Air Force, et al., Petitioners,
2023 WL 5350631 (U.S.)
Supreme Court of the United States.
Nov 2023

D.E. V. RUSSELL CTY. DEPT. OF HR
2023 WL 8531847

Jason Payne v Joseph R. Biden et.al
2023 WL 4149494 (U.S.)
Supreme Court of the United States

Live Oak Ass'n v. Railroad Comm'n, 269 U.S. 354 (1926)

Virginia v. Imperial Coal Sales Co., 293 U.S. 15 (1934)

Diamond Nat'l Corp. V. State Bd. of Equalization, 425 U.S. 268 (1976)

Johnson V. California, 541 U.S. 428 (2004)
Court granted Certiorari

Rules of the Supreme Court of the United States

West law online resources for case studies and related clauses.

SUPREME COURT PRACTICE NINTH EDITION
BY Eugene Gressman, Kenneth S. Geller, Stephen M. Shapiro, Timothy S.
Bishop, Edward A. Hartnett.

28 U.S.C § 1257 (a).... Page 150 -152
28 U.S.C. § 1331...westlaw
28 U.S.C. § 2403(a).....Page 428

JURISDICTION

Petitioner timely files this petition from the Supreme Court of California order dated Nov 15th, 2023, decision. This Court has jurisdiction under 28 U.S.C. § 1254(a).

CONSTITUTIONAL & STATUTORY PROVISIONS

The relevant statutory provisions are set out in which constitutionality of an act of congress is drawn into question 28 U.S.C. § 2403(a)

STATEMENT OF THE CASE

The case presents a split of authority among the State Appellate courts of Appeal and the lower courts of Superior court of California of contra Costa county. The Supreme Court of California denied discretionary review of the stay request. The First Appellate district Court of Appeal forwarded the case back to the Appellate division of Superior court of California of contra costa county, Appellate court took a motion of the trial court's summary classifying the matter as a "Limited commercial Unlawful Detainer" as per the trial court's September 06, 2023 notification of e-filing caption

"case is classified as limited civil"

Additionally stated "Appeals in limited civil cases are heard by the appellate division of the superior court..."

Please Refer to Appendix A for the order detail summary:

Accordingly, the cases got transferred to the Appellate division of the trial court on Oct 19, 2023. The Petition got denied.

Please refer Appendix B for the decision order of detail summary.

REASONS FOR GRANTING THE PETITION

As per Supreme Court Rule 10, one of the criteria that court considers when deciding whether to grant certiorari is when there are conflicting lower court decisions between the lower courts on questions of federal law (see for example, *Hillman v. Maretta*, 569 U.S. 483, 489(2013) (stating that the Court granted certiorari” to resolve a conflict among the lower courts.)

As per 28 U.S.C. § 1257(a), The US Supreme court has jurisdiction to review state courts by way of certiorari where the federal statute is drawn in question on the ground of its repugnant to federal law and where any right, privilege title, or immunity is claimed under the constitution or statutes of or any commission held or authority exercised under, the United States.

Under 28 USC § 1257(a), requirement of Finality has been fulfilled as well. The petition for Certiorari is submitted with the appendix, comprising the decisions documents and orders and case fillings with opinions and conclusions.

CONCLUSION:

The petitioner has submitted the Petition of Certiorari for consideration, within the timeline as per the rules of the Supreme Court of the United States
The Court should grant the petition for a writ of certiorari.

Susmita Nayak

Respectfully submitted,
Susmita Nayak,
Date: Dec 21, 2023

Resubmitted with (a) & (b) on Feb 23, 2024.

*(a) Motion for Leave to Proceed in forma Pauperis
[Signed by Notary]*