

Court No. - 8

Case :- CIVIL MISC REVIEW APPLICATION No. - 103 of 2022

Applicant :- Ahirwa Deen And Another (In Writ 1002980 Of 2010)

Opposite Party :- Ram Dhani And Others

Counsel for Applicant :- Rajendra Prasad Sharma

Counsel for Opposite Party :- Devi Prasad Maurya, Sandeep Kumar

Hon'ble Pankaj Bhatia, J.

1. Heard learned counsel for the applicants and Shri Devi Prasad Maurya, learned counsel for the respondents.

2. Present review application has been filed seeking review of the judgment dated 12.04.2022 passed in Writ - C No.1002980 of 2010.

3. From the record it appears that earlier the writ petition was decided vide judgment dated 10.02.2022. Subsequently, an application for recall was filed. The said application for recall being I.A.No.21 of 2022 was decided in favour of the applicant; the earlier judgment was recalled and the writ petition was disposed off afresh vide judgment dated 12.04.2022. In the said judgment, the Court had remanded the matter for fresh adjudication on the application filed by the petitioner seeking recall of the order dated 27.02.1992.

4. Contention of learned counsel for the applicants is that the order could not have been passed under Article 226 of the Constitution. He further argues that this Court itself has observed that the petitioner was not diligent in pursuing his remedies and thus, in view of the said finding, this Court could not have remanded the matter. He places reliance on the following judgments:

1. *Desh Raj v. Balkishan (D) through Proposed LR Ms. Rohini; Civil Appeal No.433 of 2020* decided on 20.01.2020;
2. *State of Haryana & Ors. v. Manoj Kumar; Civil Appeal No.2226 of 2010* decided on 09.03.2010;
3. *Majji Sannemma @ Sanyasirao v. Reddy Sridevi; Civil Appeal No.7696 of 2021* decided on 16.12.2021; and,
4. *Davinder Pal Sehgal & Anr. v. M/S Partap Steel Rolling Mills; Appeal (Civil) No.8503 of 2001* decided on 13.12.2001

5. In the light of the judgments referred above, it is argued that once the Court formed a view that there was negligence on the part of the applicant, no remand should be resorted to as has been done by this Court.

6. In the order dated 12.04.2022, the issue with regard to petition being filed under Article 226 of the Constitution was noted and after noting the said, the final judgment was passed.

7. No grounds exist much less the grounds available under Section 114 CPC read with Order 47 to review the judgment dated 12.04.2022.

8. The review application lacks merit and is accordingly ***dismissed.***

Order Date :- 29.11.2023

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