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HIGH COURT OF CHHATTISGARH, BILASPUR**MCC No.674 of 2013**

Smt. Kamla Bai W/o Late Ranjeet Aged About 46 years R/o Tengani, P.S.
Patna, Tah. Baikunthpur, Distt. Koriya C.G.

---- **Petitioner****Versus**

1. South Eastern Coal Field Ltd. Through- The Chairman-Cum-Managing Director, Seepat Road, Bilaspur C.G.
2. Personnel Manager S.E.C.L. Sub Area Jhilmili Colliery, Baikunthpur Area, Distt. Koriya C.G.
3. Sub Area Manager S.E.C.L., Sub Area Jhilmili, Baikunthpur Area, Distt. Koriya C.G.

---- **Respondent****And****REVP No.133 Of 2013**

1. South Eastern Coalfields Limited Thru- The Chairman-Cum-Managing Director, Seepat Road, Bilaspur C.G.
2. Personnel Manager Secl, Sub-Area Jhilmili Colliery, Baikunthpur Area, Distt. Korea C.G.
3. Sub Area Manager Secl, Sub-Area Jhilmili Colliery, Baikunthpur Area, Distt. Korea C.G.

--- **Petitioner****Vs**

Smt. Kamla Bai W/o Late Ranjeet Aged About 46 years R/o Tengani, P.S.
Patna, Tah. Baikunthpur, Distt. Korea C.G.

---- **Respondent****(MCC No.674 of 2013)**

For Petitioner : Shri A. K. Shukla, Advocate
For respondents : Shri H. B. Agrawal, Sr. Adv. With Ms. Neha Verma

(Rev. Pet. No.133-2013)

For petitioner : Shri H. B. Agrawal, Sr. Adv. With Ms. Neha Verma
For Respondent : Shri A. K. Shukla, Advocate

Order On Board**13/08/2015**

The aforestated two petitions are being decided by a common order as both petition arises out of order dated 23-04-2013 passed by this Court in W.P.(S)No.1155 of 2013.

2. Learned counsel for petitioner in MCC No.674 of 2013 has prayed for recall of order dated 23-04-2013 by submitting that the fact regarding filing of an appeal by Phoolbasiya Bai and decree passed in her favour and thereafter, second appeal preferred by Kamla Bai and pending before this Court, could not brought to the notice of this Court due to inadvertence. Learned counsel for the petitioner submits that in these circumstances, the moment, it was realized that these facts were not stated, immediately an application for recall has been moved before the Court.

3. Learned counsel for the petitioner in Review Petition No.133 of 2013 submits that the grounds, which have been raised to recall the order, is the ground raised in the review petition that the petitioner-Kamla Bai did not disclose to this Court that second appeal is pending before this Court and prayer was made for directing consideration of representation by giving an impression as if decree of the trial Court had become final, whereas later on, Phoolbasiya bai had filed first appeal, which was allowed and decree in her favour and against Kamla Bai was granted and later on, Kamla Bai filed Second Appeal No.55 of 2012, which is still pending and there is an interim order passed on 06-02-2012 directing SECL not to disburse dues and other benefits of deceased-Ranjit to the plaintiffs without the leave of the Court.

4. After going through the records and the submission of learned counsel for the parties, it is apparently clear that on the date, Writ Petition(S)No.1155 of 2013 was filed, an order was passed by this Court on 23-04-2013, second appeal filed by Kamla Bai was pending before this Court and in fact, in the second appeal, this Court restrained SECL from disbursing the dues and other benefits of deceased-Ranjit to the plaintiff i.e. Phulbasiya.

5. Had this fact been brought to the notice of the Court, this Court would not have passed this order. Therefore, in these circumstances, order dated 23-04-2013 is

hereby recalled.

6. Accordingly, both petitions (MCC No.674 of 2013 & Review Petition No.133 of 2013) are allowed. The writ petition (W.P.(S)No.1155 of 2013), is liable to be dismissed and hereby dismissed with cost of Rs.10,000/- to be borne by the writ petitioner.

Sd/-
Manindra Mohan Shrivastava
Judge

Tumane