

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

Misc. Civil Application (Review) No.1111 of 2017
Indira Sahakari Soot Girni Ltd. Vs. State of Maharashtra

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri P.C. Madkholkar, learned Counsel for petitioner
Mr. Karode, learned counsel for respondent.

CORAM : B. P. DHARMADHIKARI AND
ROHIT B. DEO, JJ

DATED : October 13, 2017

Heard learned Adv. Mr. Madkholkar
and Adv. Mr. Karode.

2. He submits that Writ Petition No. 89/2012 could have been decided even without respondent No.4 and in absence of express prayer against respondent No.4, Court could not have directed the entire amount claimed by the petitioner to be recovered from respondent No.4 with interest. He submits that on 12th June, 2017, matter was called out at 1.30 in the afternoon and though time of 15 minutes was prayed for, adjournment was not granted and matter came to be decided.

3. We have considered MCA and also the order.

4. 1.30 p.m. on any working day is the time when the Court rises and the Court seats again at 2.30 p.m. The grievances that time of

15 minutes was not allowed is incorrect. Perusal of the Judgment dated 12th June, 2017 shows that Adv. Karode has very much appeared for respondent No.4 and argued matter. He also at the threshold pointed out his absence of knowledge about the present position of respondent No.4 Cooperative Society and we have mentioned it in paragraph No.5 of the Judgment. The contentions that there was no prayer clause and hence no recovery could have been sought from respondent No.4 was also advanced by Shri Kachore, it finds mentioned in paragraph No.8.

5. Mr. Madkholkar has relied upon the Judgment of the Hon'ble Apex Court in the case of Ranbir Singh Vs. the Executive Engineer reported at [2011] 1 SCR 587. Therein the employer has challenged grant of back wages by the Labour Court vide Award, which directed the reinstatement of the worker with 50% back wages. The learned Single Judge and the Division Bench quashed and set aside the Award in its entirety i.e. not only back wages but also reinstatement to the worker. Thus, a right accrued judicially came to be denied.

6. In the case of Smt. S.R. Venkataraman Vs. Union of India and anotehr AIR 1979 SC 49, the Hon'ble Apex Court has pointed out what circumstances

malice in law.

7. In the facts and circumstances presented to us, we have after appreciating the arguments & found concession extended to respondent No.4 by other respondents unjust and therefore found it necessary that body which secured those favours must pay it back to the petitioners. We have not permitted its recovery through public revenue.

8. The judgment cited (supra), therefore, have no application. No vested right of review application has been taken away.

9. In this situation, we find prayer for review incorrect, erroneous and misconceived.

10. Rejected.

JUDGE

JUDGE