

IN THE HIGH COURT OF ORISSA AT CUTTACK

O.J.C. No.8314 of 2000

Nilachal Saraswata Sangha, Puri

.... **Petitioner**

Mr. N.K.Sahu, Advocate

-Versus-

Senior Superintendent of Post Office,
Bhubaneswar Division and others

.... **Opposite Parties**

Mr. P.K. Bhuyan, Intervenor

Mr. K.C. Kar, CGC

CORAM:
MR. JUSTICE R.K. PATTANAİK

ORDER
17.11.2023

I.A. No.58 of 2022

Order No.
103.

1. Heard learned counsel for the intervenor, Mr. Sahu, learned counsels for the petitioner and opposite parties.
2. Instant petition is filed by the intervenor (opposite party No.8) seeking modification of the Court's judgment dated 20th September, 2022 passed in O.J.C.No.8314 of 2000 on the grounds stated therein.
3. Learned counsel for the intervenor (opposite party No.8) submits that the judgment dated 20th September, 2022 in O.J.C No. 8314 of 2000 is required to be recalled since there has been no opportunity of hearing provided to them leading to the disposal of the writ petition. It is further submitted that the matter is related to a religious institution in respect of which there has been huge donations and money siphoned off fraudulently and considering the same and in absence of any hearing on intervention, the impugned

judgment is needed to be recalled in the interest of justice. Furthermore, it is contended that due to non-participation of the intervenor (opposite party No.8) and disposal of O.J.C No. 8314 of 2000, there is apparent error on the face of record which, therefore, demands recall of the judgment dated 20th September, 2022 and the same is permissible under law.

4. Mr. Sahu, learned counsel for the petitioner registered a preliminary objection as to be maintainability of the petition on the ground that it amounts to abuse of process of law. It is submitted that there has been a finality achieved as to the civil dispute between the parties with the dismissal of SLP No. 37582 of 2022 arising out of Second Appeal Nos. 254 of 2004 and 255 of 2004 and besides that, the judgment which is sought to be reviewed stands confirmed in W.A No.1410 of 2022 disposed of on 20th March, 2023. It is contended that the intervenor (opposite party No.8) though entered appearance in O.J.C No. 8314 of 2000 but did not participate thereafter ultimately leading of its disposal on merit and later confirmed the W.A. No.1410 of 2022 and under such circumstances, seeking recall of the judgment dated 20th September, 2022 in O.J.C No. 8314 of 2000 is impermissible. While advancing such an argument, Mr. Sahu, learned counsel for the petitioner relied on and referred to the following judgments, such as, **Ghanashyam Mishra and Sons Private Limited Vrs. Edelweiss Asset Reconstruction Company Limited & others 2022 Live Law (SC) 771** and **Custodian of Evacuee Properties Vrs. Amjadali Gazanfarali Bukhari and others (2014) 16 SCC 92**. It is contended that in a similar case, while dealing with a matter seeking review, the Apex Court in **Ghanashyam Mishra** (supra) held and observed that the same amounts to abuse of process of law. It has been observed therein that valuable time of Court is unnecessarily spent in deciding

and disposing of such applications which at times would otherwise be attending litigations pending for decades. It is submitted that in the aforesaid case, cost of Rs. 10 lac was imposed. In the other case cited, in a similar instance, when there was a rehearing demanded after disposal of the matter achieving finality while dealing with interlocutory applications with regard to subject matter which had become infructuous, the Apex Court concluded that such application should not be entertained after final disposal as it amounts to abuse of process of law. Referring to the aforesaid decisions, it is lastly contended that the petition filed by the intervenor (opposite party No.8) should not be entertained rather dismissed in view of the fact that O.J.C No. 8314 of 2000 was disposed of by the judgment on merit which was later confirmed in W.A No. 1410 of 2022.

5. The submissions of learned counsel for the opposite parties are noted down.

6. Having regard to the facts of the case and disposal of O.J.C No. 8314 of 2000 and thereafter, confirmation in W.A. No.1410 of 2022 and the fact that the intervenor (opposite party No.8) though initially entered appearance but thereafter disappeared despite liberty granted to him to participate therein, the Court is of the considered view that the decision having been confirmed and dispute finally decided, no case is made out for modification or recall of the judgment dated 20th September, 2022. That apart, the intervenor (opposite party No.8) did not even bother to be a party in W.A. No.1410 of 2022. Hence, regard being had to the aforesaid facts and the civil dispute between the parties reaching finality by order of the Apex Court in SLP No.37582 of 2022, the Court is not inclined to entertain the prayer of the intervenor, inasmuch as, no case is made out for intervention. Keeping of the view the decisions

of the Apex Court as discussed herein above and the facts and circumstances of the case, the Court reaches at a logical conclusion that petition for recall after confirmation of the judgment dated 20th September, 2022 in W.A No.1410 of 2022 is not to be entertained.

7. Accordingly, I.A stands dismissed.

(R.K. Pattanaik)
Judge

Rojina



Signature Not Verified

Digitally Signed
Signed by: ROJINA SAHOO
Designation: Junior Stenographer
Reason: Authentication
Location: OHC, CTC
Date: 20-Nov-2023 16:30:21

