



C.M.P. No. 21927 of 2022
in
W.A. No. 2134 of 2022

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S. VAIDYANATHAN,J.

AND

C. SARAVANAN,J.

The civil miscellaneous petition has been filed to recall or modify the order dated 27.09.2022 passed in W.A. No. 2134 of 2022 and to restore the writ appeal for hearing afresh.

2. Today, when the matter is taken up, learned counsel for the petitioner has produced an order dated 03.08.2020 in W.A.SR. No. 44351 of 2020 by a Division Bench of this Court with regard to maintainability of the above interim application. However, we are of the view that once final orders have been passed by this Court, whether it is erroneous or reviewable needs to be decided either by the Apex Court or by the very same Division Bench, which passed the order or by the Division Bench to which one of the Judges of the earlier Bench, which passed the order may be a party and



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filing a petition to recall or modify the order does not arise. Further, the judgment quoted supra, which has been relied upon by the learned counsel for the petitioner may not be applicable to the case on hand since the said writ appeal was filed as against the order passed by a learned Single Judge in writ petition (criminal) and taking note of the various decisions of the Apex Court, the Division Bench had held that intra-court appeal is not maintainable since the order is in a writ petition pertaining to criminal matter. Hence, the said decision relied upon by the learned counsel for the petitioner may not be applicable to the present set of facts.

3. The learned counsel for the petitioner would submit that he may be permitted to file a review petition.

4. We are not inclined to express any opinion on the aforesaid submission made by the learned counsel for the petitioner. If law permits, we cannot prevent the petitioner from filing a review and it is for the Bench to consider with regard to the merits and demerits of the matter when such review is filed, numbered and taken up on file.



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5. With the above observation, the miscellaneous petition stands dismissed.

nv

21.12.2022

(S.V.N.J.) (C.S.N.J.)

S. VAIDYANATHAN,J.

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