

AD-62
Ct No.09
08.03.2024
TN

RVW 159 of 2023
IA No: CAN 2 of 2023
In
WPA No. 3832 of 2020

MPS Greenery Developers Ltd. and another
Vs.
The State of West Bengal and others

Mr. Swatarup Banerjee,
Mr. Ratul Biswas,
Mr. Kaushik Chowdhury,
Ms. Soumoyadipa Kanu

.... for the applicants

Mr. Pantu Dey Roy, Ld. AGP,
Mr. Subrata Guha Biswas

....for the State

Mr. Subhasis Chakraborty,
Ms. Sushmita Kumari Singh

.... for the depositors
(via video conference)

Mr. Surajit Nath Mitra, Ld. Sr. Adv.
Mr. Prasanta Kumar Dutt,
Mr. Susanta Kumar Dutt,
Mr. Syamantak Banerjee

.... for the SEBI

Mr. Amajit De, Ld. Special PP

....for the CBI

- 1.** Learned counsel for the petitioners submits that an appeal was preferred against the order under review passed by this court on September 01, 2022 in WPA 3832 of 2020. The appeal was disposed of with liberty to the review applicants to move this court in review.
- 2.** The limited grievance of the petitioners is that in paragraph no. 14 of the said judgment under review, certain observations were made regarding the nature

of the petitioner's business, vis-à-vis whether the same was a chit fund or not, which were beyond the subject-matter of the writ petition itself.

3. It is contended that in respect of the said issue, already a separate writ petition is pending. Hence, the petitioners seek a review of the order to the extent that the observations in paragraph no. 14 of the said order be declared to be inconclusive and tentative and not binding.
4. Learned counsel for the petitioners also places reliance on the averments in the affidavit-in-opposition filed by the SEBI, in particular, the last sub-paragraph of paragraph no. 26 of the same, where the SEBI itself has admitted that this court had not given any conclusive finding regarding the nature of the company/its schemes and had merely reiterated the need for a proper investigation in view of the gravity of the financial scam affecting large number of investors across the country.
5. Learned senior counsel appearing for the SEBI submits that the contention raised by the petitioners does not come within the ambit of the principles of Order XLVII of the Code of Civil Procedure and, as such, the review is not maintainable in the eye of law.
6. Even otherwise, the SEBI has expressed its stand in the affidavit-in-opposition.

7. Learned counsel for the CBI submits that investigation by the CBI has been completed and charge-sheet has been already submitted.
8. There is substance in the contention of both the petitioners and the SEBI inasmuch as the findings/observations made in paragraph no. 14 of the judgment under review were not and could not be conclusive in nature. In fact, the petitioners are justified in arguing that the question as to whether the petitioner no. 1-company is a chit fund or otherwise was not even the subject-matter of challenge in the writ petition. Hence, the said observation could not, in any event, be construed to be a part of the ratio of the judgment or conclusive.
9. However, the SEBI is also correct in arguing that such fact does not make the present challenge amenable to the review jurisdiction.
10. I do not find any error apparent on the face of the record or discovery of new matter to justify a review of the order of this court. In fact, it can readily be inferred from a perusal of the order under review itself that the findings in paragraph no. 14 of the same were not conclusive in nature and are subject to the outcome of the other writ petition and/or any investigation which might be pending or which might have been concluded with regard to petitioner no.1-company.

- 11.** In the light of the above observations, there is no scope of interference in the review jurisdiction.
- 12.** Accordingly, RVW 159 of 2023 along with the connected application IA No: CAN 2 of 2023 are disposed of in the light of the above observations.
- 13.** There will be no order as to costs.
- 14.** Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)