

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD.

RESTORATION APPLICATION NO. Nil of 1987

IN

REGISTRATION T.A. NO. 166 of 1987

Union of India & others Applicant

Versus

Surajdeo Mall Respondents.

Hon'ble A. Banerjee.C(J)
Hon'ble Ajay Johri- AM


This is a transferred application pending before this Tribunal in Original Suit filed by Surajdeo Mall against the Union of India & others which was decreed. The Union of India filed Civil Appeal no.466 of 1982 in the Court of Civil Judge-I Gorakhpur. The appeal was fixed for hearing on 11.9.84. However, the learned counsel for the Union of India Sri Jayanti Prasad did not attend the court and other Railway Advocate Sri Samarjit was also not available with the result that the appeal was dismissed. Subsequently, an application was made on 10.8.84 for recalling of the order of dismissal of the appeal dated 11.9.84 and restoring the appeal to its original number. This application remained pending and was not disposed of when the ^{Civil} appeal was transferred to this Tribunal on coming into force the Administrative Tribunals Act, 1985.


2. The question arises whether pending restoration application is to be decided by Civil Judge before whose Court, it was pending in appeal or by the Tribunal. In view of the provisions of Section 29 of the Administrative

Tribunals Act, 1985, there can be no manner of dispute that once the case is transferred to the Tribunal, it is the Tribunal which will consider and pass orders in all matters that came before it including those which remained pending for disposal. As a matter of fact, Civil Appeal itself was pending disposal there when it was transferred. In view of this matter, there is no substance in the contention that the Tribunal has no jurisdiction to decide this matter. We hold that the Tribunal alone is competent to decide this matter.

3. On the merits, we have examined the matter and heard the learned counsel for the parties and we are satisfied that the application having been made within thirty days of the dismissal of the appeal and sufficient cause having been shown, the application merits to be allowed. We accordingly allow the application and order for restoration of the appeal which was dismissed in default on 11.9.84 by the Court of Civil Judge, 1st, Gorakhpur. The appeal after having been restored is now subject matter of transferred application listed today before us.

4. The pleadings are complete. This case will now be listed for final hearing on 27.1.1989.


MEMBER (A)


CHAIRMAN (J)

Dt/21.12.88/
Shahid.