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MA 402/97

In OA 1495/93

(27) 3.6.97

HON.MR.JUSTICE B.C.SAKSENA,V.C.

HON.MR.S.DAS GUPTA, MEMBER(A)

We have heard the learned counsel for the applicant on MA 402/97. By an order dated 21.1.96 the permission by the learned counsel for the applicant seeking to withdraw the OA was granted and the OA⁶ was dismissed as withdrawn if the limitation for cause of action which may be disclosed therein be available.⁷ The applicant thereafter filed a fresh OA which was registered as OA 360/96. By a detailed order passed on 4.11.96 the said OA was dismissed on the ground of being barred by limitation.

Through this MA the applicant seeks recall of the order dated 21.1.96. The learned counsel submitted that the applicant should not be made to suffer for the fault of his counsel. We have not to adjudicate on this plea but we find that similar plea was raised before the D.B which decided OA 360/96. The D.B observed that they cannot accept this explanation since he was engaged by the applicant to represent him and the applicant is bound to ^{by} take any action on his behalf. The same submission is now being repeated. We do not find any merit in it. The MA was filed after lapsing one year after having availed of the opportunity to file a fresh OA. The MA is therefore rejected. The OA may be consigned to records.

[Signature]
MEMBER(A)

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VICE CHAIRMAN