

04.12.2002

Hon'ble Mrs. Meera Chhibber, J.M.

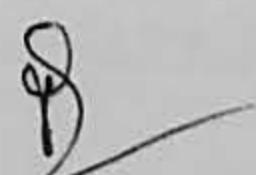
Shri Rajesh Kumar, learned counsel for the applicant.
Shri S.C. Mishra, learned counsel for the respondents.

Counsel for the applicant has filed Misc. restoration application No.2620/2002 praying therein to recall the order dated 04.06.2002 he may be heard so that justice be done. I have seen the order passed on 04.06.2002. On that date, the restoration application moved by the applicant was allowed. Even though, the applicant was not present final order was passed by the court on merits of the case. There is no provision in the A.T. Act to recall a final order passed by the court by moving an application for restoration. The applicant's counsel has submitted since the order was passed in his absence the order is liable to be recalled. I am afraid such a contention is not maintainable. Rule 15(I) of CAT Procedure Rule, 1987 for ready reference reads as under:-

"Where on the date fixed for hearing of the application or on any other date to which such hearing may be adjourned, the applicant does not appear when the application is called for hearing, the Tribunal may, in its discretion, either dismiss the application for default or hear and decide it on merit."

Since there is a provision to decide the case on merits ~~exparte~~ also, the present M.A. is mis-conceived.

The same is accordingly dismissed.


MEMBER (J)

shukla/-