

19-9-2002

Hon'ble Mr. S.Dayal, Member (A)

Hon'ble Mrs. Meera Chibber, Member (J)

Km. Sadhna Srivastava, counsel for the applicant and Shri A.Tripathi, counsel for the respondents.

This review petition has been filed with the prayer that order dated 9-4-2002 be recalled after review.

We have heard Km. Sadhna Srivastava, the applicant in review and Shri Avnish Tripathi, the counsel for the applicant is now in review.

The order dated 9-4-2002 is sought to be reviewed which reads as under:-

" Sri A.Tripathi, counsel for the applicant and Km. S.Srivastava, counsel for the respondent

Counsel for respondents has brought to our notice that the applicant had filed his appeal on 26.3.97 but without waiting for the disposal of the same or expiry of six months thereafter, he filed the present O.A on 30.6.97 i.e. within three months after filing of the appeal. The appeal could not be disposed of due to the pendency of this O.A. The stay against the recovery was already granted by this court. The present O.A is disposed of with the direction to the respondents No.2 to decide the appeal of the applicant within a period of two months from the date of receipt of a copy of this order and till such time, no recovery shall be made from the applicant. The appeal shall be disposed of by passing a reasoned and speaking order.

With above directions, the O.A is disposed of. The applicant would be at liberty to challenge the order if he is still aggrieved by the same."

The learned counsel for the applicant in review has now stated that the appeal preferred by the applicant dated 26-3-1997 has already been decided by the respondents No.2 by order dated 26-3-1999 and a copy of the order had been served to the applicant in the O.A. A copy of the order in appeal has been annexed as Annexure A-3.

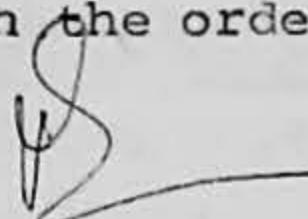
Learned counsel for the applicant in review has stated that she was not aware about the disposal of appeal on 9-4-2002 and had made statement on the basis of assertion made in the counter affidavit.

It appears to be a ~~bonafide~~ mistake on the part of learned counsel for the applicant in review. We,

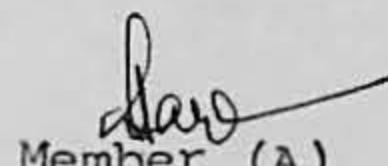
(5)

therefore, recall the order dated 9-4-2002. The O.A stands restored. The stay against the recovery shall continue.

Learned counsel for the respondents in review seeks three weeks time to bring an amendment to the O.A which is also allowed. With this, the review petition stands disposed of. The O.A may be listed transcribing this order in the ordersheet. List on 28-10-2002.



Member (J)



Member (A)

madhu/