

M/S. Lokenath Tolaram and Others

Vs

B. N. Rangawani and Others

Review Petitions Nos. 7-9 of 1974

(CJI A. N.Ray, K. K. Mathew, Y. V. Chandrachud, P. N. Bhagwati JJ )

09.08.1974

JUDGMENT

RAY, C.J. -

1. In Civil Appeal No. 1132 of 1971 an application for review of the judgment dated November 8, 1973 Lokenath Tolarm v. B. N. Rangawani ((1974) 3 SCC 575 : 1974 SCC (Cri) 53) has been made. The review is accepted for the following reasons.
2. Civil Appeal No. 1132 of 1972 and Civil Appeals Nos. 1109 and 1133 of 1971 were heard together. A common judgment was delivered in the three matters. The three appeals were dismissed.
3. One of the grounds for dismissal of the three appeals was that there were consent orders in all the three appeals.
4. It appears that in Civil Appeal No. 1132 of 1971 there was no consent order similar to the other appeals.
5. In Civil Appeal No. 1132 of 1971 a bond under Rule 206 of the Excise Rules was entered into by Fancy Fabrics Company for the sum of Rs. 42,733.
6. In Civil Appeal No. 1132 of 1971 it appears that Fancy Fabrics Company field a petition in the High Court at Bombay and the petition was allowed to be withdrawn with liberty to file a fresh petition.
7. In the petition before the High Court out of which of which Civil Appeal No. 1132 of 1971 arises M/s. Narayan Hosiery Private Limited asked for mandamus to release the goods and books of account, vouchers and files mentioned in the petition.
8. It appears that there are dispute as to ownership of the goods forming the subject matter of the petition in the High Court out of which Civil Appeal No. 1132 of 1971 arises.
9. In view of the fact that there is no consent order we are of opinion that Civil Appeal No. 1132 of 1971 should be remanded to the High Court for disposal after hearing the parties. Parties will pay and bear their own costs of the appeal and the review in this court.

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