

Collector of 24 Parganas and Others

Vs

Lalith Mohan Mullick and Others

Review Petition No. 496 of 1987

(M.P. Thakkar, N.D. Ojha JJ)

10.03.1988

ORDER

1. This review petition has been instituted on the plea that original respondent 2 Smt. Sibadasi Mullick, widow of Shri Krishna Mohan Mullick had died during the pendency of the appeal in this Court and that original respondent 5 Smt. Kamalini Mullick, widow of Shri Khirode Mohan Mullick had also died during the pendency of the appeal in this Court which was disposed of on merits by a judgment and order dated February 13, 1986 ((1986) 2 SCC 138) after hearing the parties. So far as Smt. Sibadasi Mullick, widow of Shri Krishna Mohan Mullick is concerned, her two sons viz. Lakshmi Kanto Mullick and Nilkanto Mullick were already on record as respondents 3 and 4. Therefore, the estate of the deceased was sufficiently represented before this Court. So far as respondent 5 Smt. Kamalini Mullick, widow of Shri Khirode Mohan Mullick is concerned, her son Ramendra Mullick was already on record as respondent 6. In her case also the estate was sufficiently represented. Under the circumstances it is not possible to uphold the plea that the appeal had abated and the judgment on merits rendered by this Court on February 13, 1986 requires to be set aside on this ground.

2. ((1986) 2 SCC 138) Learned counsel for the applicant has also raised the contention embodied in ground No. D reading as under :

This Honourable Court was allowed to be misled by documents alleged to be the petition of appeal presented before this Honourable Court and not bringing to the notice of this Honourable Court the facts that the Society of Experimental Science, India for whom the land in dispute was sought to be acquired was not in existence and in fact the land was not at all needed by the appellants herein for public purpose for constructing a hospital for the crippled children as claimed by the appellants herein;

So far as this ground is concerned, it was not raised before this Court when the appeal was heard on merits. It does not appear to have been raised even before the High Court. The new ground cannot be taken into consideration for the purposes of the review application, apart from the fact that it would also involve investigation of new facts which were on record till the point of time when the appeal was disposed of by this Court on February 13, 1986. We see no reason to entertain this review petition which accordingly fails and is dismissed.

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