

SUPREME COURT OF INDIA

Steel Authority of India Ltd.

Vs.

Ranchi Municipal Corpn.

(A.P. Mishra and D.P. Mohapatra JJ.)

13.04.2000

ORDER

A.P. MISRA, J.

1. Leave granted.

2. Heard learned Counsel for the parties.

3. The Appellant has challenged the order passed by the High Court dated 13th January, 1999 whereby the review application was dismissed holding that the order passed by the High Court, which was sought to be reviewed, merged with the order passed by the Court on 3rd November, 1997 and hence the review was not maintainable.

4. The Appellant has challenged the imposition of enhancement of tax on the Appellant by way of a Writ Petition which was dismissed by a learned Single Judge upholding the said imposition. Aggrieved by that order, an appeal was preferred in which a Division Bench of the High Court passed the following order:

Having heard learned Counsel for the Appellant and perusing the records it is apparent that the Writ Petition was filed challenging the show cause notice issued by the Ranchi Municipal Corporation whereas in the Act itself remedy was provided.

However, on merits the Writ Petition was dismissed against which this L.P.A. has been filed.

Having heard and perusing the order impugned we are of the opinion that since remedy was available to the Appellant against the show cause notice, the Writ Petition itself was not maintainable. In this view of the matter, this L.P.A. is also not maintainable.

This appeal is, accordingly, dismissed.

5. Aggrieved by the said order, the Appellant preferred an S.L.P. to this Court which was disposed of by this Court on 3rd November, 1997, which reads thus:

Mr. Dipankar Gupta, learned senior Counsel appearing for the Petitioner submits that the observations made by the Division Bench in its order dated 20.08.1997 to the effect that the Writ

Petition had been filed challenging the show cause notice issued by the Ranchi Municipal Corporation are factually not correct and, therefore, the Petitioner would approach the High Court for a review petition. We record the statement of the learned Counsel for the Petitioner and dismiss the Special Leave Petition as withdrawn.

6. Learned Counsel for the Appellant submits that the Appellant withdrew the S.L.P. for preferring a review because of certain incorrect statements recorded in the High Court order. On the other hand, (earned Counsel for the Respondent submits that though it is true that the High Court recorded in its order wrongly that challenge is to the show cause notice though it was against demand notice, still that order merged with the order passed by this Court when it dismissed the S.L.P. However, so far the factual error if any, we do not like to enter into it for the disposal of the present appeal. It is suffice to say that this Court dismissed the aforesaid S.L.P. earlier as withdrawn after recording the statement of the Counsel for the Appellant that he would like to move for the review of the High Court order.

7. Considering the aforesaid facts and circumstances, the fact that party wants to move for review because incorrect statement of fact is recorded on which the High Court passed the order that being recorded in its order it was not proper for the High Court to have rejected the review petition on the principle of merger. If any factual error has crept in the impugned order and the Appellant on this premises does not want to press his appeal for moving a review petition then dismissal by the appellate court is merely based on such statement. Hence, such an order would stand on a different pedestal. Still it is open to the court to test whether any review is otherwise maintainable or whether it falls within the scope of review. The court still has to see whether there is any such error, which is apparent on the face of record. Hence the impugned order has to be set aside.

8. However, we make it clear, it is without prejudice to the rights of the parties to make all such submissions which are within the permissible ambit of the review petition.

9. We, accordingly, set aside the order passed by the High Court dated 13th January, 1999 and remand the case back to it to dispose of the review petition in accordance with law. Liberty is granted to the Appellant to move the High Court for an appropriate order.

10. The appeal stands dispose of. No orders as to costs.