Kamlesh Verma

v.

Mayawati & Others

(Supreme Court Of India)

HON'BLE CHIEF JUSTICE MR. P. SATHASIVAM HON'BLE MR. JUSTICE DIPAK MISRA

Review Petition (Criminal) No. 453 Of 2012 In Writ Petition (Crl.) 135 Of 2008 | 08-08-2013

P. Sathasivam, CJI.

1) This petition has been filed by the petitioner herein-Kamlesh Verma seeking review of the judgment and order dated 06.07.2012 passed in Mayawati vs. Union of India & Ors. (2012) 8 SCC 106 (Writ Petition (Crl.) No. 135 of 2008).

2) Brief Facts:

(a) This Court, by order dated 16.07.2003 in I.A. No. 387 of 2003 in Writ Petition (C) No. 13381 of 1984 titled M.C. Mehta vs. Union of India & Ors., (2003) 8 SCC 706, directed the CBI to conduct an inquiry on the basis of the I.A. filed in the aforesaid writ petition alleging various irregularities committed by the officers/persons concerned in the Taj Heritage Corridor Project and to submit a Preliminary Report. By means of an order dated 21.08.2003 in M.C. Mehta vs. Union of India (2003) 8 SCC 711, this Court issued certain directions to the CBI to interrogate and verify the assets of the persons concerned with regard to outflow of Rs. 17 crores which was alleged to have been released without proper sanction for the said Project.

(b) The CBI-Respondent No. 2 therein submitted a report on 11.09.2003 before this Court which formed the basis of order dated 18.09.2003 titled M.C. Mehta vs. Union of India and Others, (2003) 8 SCC 696 wherein the CBI was directed to conduct an inquiry with respect to the execution of the Taj Heritage Corridor Project under Taj Trapezium Zone (TTZ) Area at Agra which culminated into

the registration of an FIR being No. 0062003A0018 of 2003 dated 05.10.2003 under Section 120-B read with Sections 420, 467, 468 and 471 of the Indian Penal Code, 1860 (in short 'the IPC') and under Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988 (in short 'the PC Act') against several persons including Ms. Mayawati- Respondent No. 1 herein.

(c) On the very same date, i.e., on 05.10.2003, Shri K.N. Tewari, Superintendent of Police, CBI/ACP, Lucknow lodged another FIR being RC No. 0062003A0019 of 2003 under Section 13(2) read with Section 13(1)(e) of the PC Act only against Ms. Mayawati (petitioner therein) alleging that in pursuance of the orders dated 21.08.2003, 11.09.2003 and 18.09.2003 passed by this Court, the CBI conducted an inquiry with regard to the acquisition of disproportionate movable and immovable assets of Ms. Mayawati and her close relatives on the basis of which, the CBI has lodged the said FIR. Pursuant to the same, the CBI conducted raids, search and seizure operations at all the premises of the petitioner therein and her relatives and seized all the bank accounts.

(d) Aggrieved by the filing of the FIR being RC No. 0062003A0019 of 2003, Ms. Mayawati-the petitioner therein and Respondent No. 1 herein preferred Writ Petition (Crl.) No. 135 of 2008 before this Court. In the said petition, one Shri Kamlesh Verma (the petitioner herein) also moved an application for intervention being I.A. No. 8 of 2010.

(e) This Court, by order dated 06.07.2012, quashed the FIR being No. 0062003A0019 of 2003 dated 05.10.2003 holding that the order dated 18.09.2003 does not contain any specific direction regarding lodging of FIR in the matter of disproportionate assets case against Ms. Mayawati (the petitioner therein) and the CBI exceeded its jurisdiction in lodging the same and also allowed the application for intervention.

(f) Aggrieved by the order of quashing of the FIR being No.0062003A0019 of 2003 dated 05.10.2003, Shri Kamlesh Verma-the petitioner herein/the intervenor therein has filed the above review petition.

3) Heard Mr. Shanti Bhushan, learned senior counsel for the petitioner, Mr. Satish Chandra Mishra, learned senior counsel for Respondent No. 1 herein and Mr. Mohan Parasaran, learned Solicitor General for the CBI.

Discussion:

4) The only point for consideration in this petition is whether the review petitioner has made out a case for reviewing the judgment and order dated 06.07.2012 and satisfies the criteria for entertaining the same in review jurisdiction?

Review Jurisdiction:

5) Article 137 of the Constitution of India provides for review of judgments or orders by the Supreme Court which reads as under:

"Subject to the provisions of any law made by Parliament or any rules made under Article 145, the Supreme Court shall have power to review any judgment pronounced or order made by it."

6) Order XLVII, Rule 1(1) of the Code of Civil Procedure, 1908, provides for an application for review which reads as under:

"Any person considering himself aggrieved-

a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred,

b) by a decree or order from which no appeal is allowed, or

c) by a decision on a reference from a Court of Small Causes, and who, from the discovery of new and important matter or evidence which, after the exercise of

due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the court which passed the decree or made the order."

7) Further, Part VIII Order XL of the Supreme Court Rules, 1966 deals with the review and consists of four rules. Rule 1 is important for our purpose which reads as under:

"The Court may review its judgment or order, but no application for review will be entertained in a civil proceeding except on the ground mentioned in Order XLVII Rule 1 of the Code and in a criminal proceeding except on the ground of an error apparent on the face of the record."

8) This Court has repeatedly held in various judgments that the jurisdiction and scope of review is not that of an appeal and it can be entertained only if there is an error apparent on the face of the record. A mere repetition through different counsel, of old and overruled arguments, a second trip over ineffectually covered grounds or minor mistakes of inconsequential import are obviously insufficient. This Court, in Sow Chandra Kante & Anr. vs. Sheikh Habib (1975) 1 SCC 674, held as under:

"1. Mr Daphtary, learned counsel for the petitioners, has argued at length all the points which were urged at the earlier stage when we refused special leave thus making out that a review proceeding virtually amounts to a re-hearing. May be, we were not right is refusing special leave in the first round; but, once an order has been passed by this Court, a review thereof must be subject to the rules of the game and cannot be lightly entertained. A review of a judgment is a serious step and reluctant resort to it is proper only where a glaring omission or patent mistake or like grave error has crept in earlier by judicial fallibility. A mere repetition, through different counsel, of old and overruled arguments, a second trip over ineffectually covered ground or minor mistakes of inconsequential import are obviously insufficient. The very strict need for compliance with these factors is the rationale behind the insistence of counsel's certificate which

should not be a routine affair or a habitual step. It is neither fairness to the Court which decided nor awareness of the precious public time lost what with a huge backlog of dockets waiting in the queue for disposal, for counsel to issue easy certificates for entertainment of review and fight over again the same battle which has been fought and lost. The Bench and the Bar, we are sure, are jointly concerned in the conservation of judicial time for maximum use. We regret to say that this case is typical of the unfortunate but frequent phenomenon of repeat performance with the review label as passport. Nothing which we did not hear then has been heard now, except a couple of rulings on points earlier put forward. May be, as counsel now urges and then pressed, our order refusing special leave was capable of a different course. The present stage is not a virgin ground but review of an earlier order which has the normal feature of finality."

9) In a criminal proceeding, review is permissible on the ground of an error apparent on the face of the record. A review proceeding cannot be equated with the original hearing of the case. In M/s Northern India Caterers (India) Ltd. vs. Lt. Governor of Delhi, (1980) 2 SCC 167, this Court, in paragraph Nos. 8 & 9 held as under:

"8. It is well-settled that a party is not entitled to seek a review of a judgment delivered by this Court merely for the purpose of a rehearing and a fresh decision of the case. The normal principle is that a judgment pronounced by the Court is final, and departure from that principle is justified only when circumstances of a substantial and compelling character make it necessary to do so: Sajjan Singh v. State of Rajasthan. For instance, if the attention of the Court is not drawn to a material statutory provision during the original hearing, the Court will review its judgment: G.L. Gupta v. D.N. Mehta. The Court may also reopen its judgment if a manifest wrong has been done and it is necessary to pass an order to do full and effective justice: O.N. Mohindroo v. Distt. Judge, Delhi. Power to review its judgments has been conferred on the Supreme Court by Article 137 of the Constitution, and that power is subject to the provisions of any law made by Parliament or the rules made under Article 145. In a civil proceeding, an application for review is entertained only on a ground mentioned in Order 47 Rule 1 of the Code of Civil Procedure, and in a criminal proceeding on the ground of an error apparent on the face of the record (Order 40 Rule 1, Supreme Court Rules, 1966). But whatever the nature of the proceeding, it is beyond dispute that a review proceeding cannot be equated with the original hearing of the case, and the finality of the judgment delivered by the Court will

not be reconsidered except "where a glaring omission or patent mistake or like grave error has crept in earlier by judicial fallibility": Sow Chandra Kante v. Sheikh Habib.

9. Now, besides the fact that most of the legal material so assiduously collected and placed before us by the learned Additional Solicitor General, who has now been entrusted to appear for the respondent, was never brought to our attention when the appeals were heard, we may also examine whether the judgment suffers from an error apparent on the face of the record. Such an error exists if of two or more views canvassed on the point it is possible to hold that the controversy can be said to admit of only one of them. If the view adopted by the Court in the original judgment is a possible view having regard to what the record states, it is difficult to hold that there is an error apparent on the face of the record."

10) Review of the earlier order cannot be done unless the court is satisfied that material error, manifest on the face of the order, undermines its soundness or results in miscarriage of justice. This Court, in Col. Avtar Singh Sekhon vs. Union of India & Ors. 1980 (Supp) SCC 562, held as under:

"12. A review is not a routine procedure. Here we resolved to hear Shri Kapil at length to remove any feeling that the party has been hurt without being heard. But we cannot review our earlier order unless satisfied that material error, manifest on the face of the order, undermines its soundness or results in miscarriage of justice. In Sow Chandra Kante v. Sheikh Habib this Court observed :

"A review of a judgment is a serious step and reluctant resort to it is proper only where a glaring omission or patent mistake or like grave error has crept in earlier by judicial fallibility.... The present stage is not a virgin ground but review of an earlier order which has the normal feature of finality."

11) An error which is not self-evident and has to be detected by a process of reasoning can hardly be said to be an error apparent on the face of the record

justifying the Court to exercise its power of review. A review is by no means an appeal in disguise whereby an erroneous decision is re-heard and corrected, but lies only for patent error. This Court, in Parsion Devi & Ors. vs. Sumitri Devi & Ors., (1997) 8 SCC 715, held as under:

"7. It is well settled that review proceedings have to be strictly confined to the ambit and scope of Order 47 Rule 1 CPC. In Thungabhadra Industries Ltd. v. Govt. of A.P. this Court opined:

"What, however, we are now concerned with is whether the statement in the order of September 1959 that the case did not involve any substantial question of law is an 'error apparent on the face of the record'). The fact that on the earlier occasion the Court held on an identical state of facts that a substantial question of law arose would not per se be conclusive, for the earlier order itself might be erroneous. Similarly, even if the statement was wrong, it would not follow that it was an 'error apparent on the face of the record', for there is a distinction which is real, though it might not always be capable of exposition, between a mere erroneous decision and a decision which could be characterised as vitiated by 'error apparent'. A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected, but lies only for patent error."(emphasis ours)

8. Again, in Meera Bhanja v. Nirmala Kumari Choudhury while quoting with approval a passage from Aribam Tuleshwar Sharma v. Aribam Pishak Sharma this Court once again held that review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of Order 47 Rule 1 CPC.

9. Under Order 47 Rule 1 CPC a judgment may be open to review inter alia if there is a mistake or an error apparent on the face of the record. An error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of the record justifying the court to exercise its power of review under Order 47 Rule 1 CPC. In exercise of the jurisdiction under Order 47 Rule 1 CPC it is not permissible for an erroneous decision to be "reheard and corrected". A review petition, it must be remembered has a limited purpose and cannot be allowed to be "an appeal in disguise".

12) Error contemplated under the rule must be such which is apparent on the face of the record and not an error which has to be fished out and searched. It must be an error of inadvertence. The power of review can be exercised for correction of a mistake but not to substitute a view.

The mere possibility of two views on the subject is not a ground for review. This Court, in Lily Thomas & Ors. vs. Union of India & Ors., (2000) 6 SCC 224, held as under:

"54. Article 137 empowers this Court to review its judgments subject to the provisions of any law made by Parliament or any rules made under Article 145 of the Constitution. The Supreme Court Rules made in exercise of the powers under Article 145 of the Constitution prescribe that in civil cases, review lies on any of the grounds specified in Order 47 Rule 1 of the Code of Civil Procedure which provides:

"1. Application for review of judgment.-(1) Any person considering himself aggrieved-

(a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred,

(b) by a decree or order from which no appeal is allowed, or

(c) by a decision on a reference from a Court of Small Causes, and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the court which passed the decree or made the order."

Under Order XL Rule 1 of the Supreme Court Rules no review lies except on the ground of error apparent on the face of the record in criminal cases. Order XL Rule 5 of the Supreme Court Rules provides that after an application for review has been disposed of no further application shall be entertained in the same matter.

56. It follows, therefore, that the power of review can be exercised for correction of a mistake but not to substitute a view. Such powers can be exercised within the limits of the statute dealing with the exercise of power. The review cannot be treated like an appeal in disguise. The mere possibility of two views on the subject is not a ground for review. Once a review petition is dismissed no further petition of review can be entertained. The rule of law of following the practice of the binding nature of the larger Benches and not taking different views by the Benches of coordinated jurisdiction of equal strength has to be followed and practised. However, this Court in exercise of its powers under Article 136 or Article 32 of the Constitution and upon satisfaction that the earlier judgments have resulted in deprivation of fundamental rights of a citizen or rights created under any other statute, can take a different view notwithstanding the earlier judgment.

58. Otherwise also no ground as envisaged under Order XL of the Supreme Court Rules read with Order 47 of the Code of Civil Procedure has been pleaded in the review petition or canvassed before us during the arguments for the purposes of reviewing the judgment in Sarla Mudgal case, (1995) 3 SCC 635 It is not the case of the petitioners that they have discovered any new and important matter which after the exercise of due diligence was not within their knowledge or could not be brought to the notice of the Court at the time of passing of the judgment. All pleas raised before us were in fact addressed for and on behalf of the petitioners before the Bench which, after considering those pleas, passed the judgment in Sarla Mudgal case. We have also not found any mistake or error apparent on the face of the record requiring a review. Error contemplated under the rule must be such which is apparent on the face of the record and not an error which has to be fished out and searched. It must be an error of inadvertence. No such error has been pointed out by the learned counsel appearing for the parties seeking review of the judgment. The only arguments advanced were that the judgment interpreting Section 494 amounted to violation of some of the fundamental rights. No other sufficient cause has been shown for reviewing the judgment. The words "any other sufficient reason appearing in

Order 47 Rule 1 CPC" must mean "a reason sufficient on grounds at least analogous to those specified in the rule" as was held in Chhajju Ram v. Neki, AIR 1922 PC 112 and approved by this Court in Moran Mar Basselios Catholicos v. Most Rev. Mar Poulose Athanasius, AIR 1954 SC 526 Error apparent on the face of the proceedings is an error which is based on clear ignorance or disregard of the provisions of law. In T.C. Basappa v. T. Nagappa, AIR 1954 SC 440 this Court held that such error is an error which is a patent error and not a mere wrong decision. In Hari Vishnu Kamath v. Ahmad Ishaque, AIR 1955 SC 233, it was held:

"[I]t is essential that it should be something more than a mere error; it must be one which must be manifest on the face of the record. The real difficulty with reference to this matter, however, is not so much in the statement of the principle as in its application to the facts of a particular case. When does an error cease to be mere error, and become an error apparent on the face of the record? Learned counsel on either side were unable to suggest any clear-cut rule by which the boundary between the two classes of errors could be demarcated. Mr Pathak for the first respondent contended on the strength of certain observations of Chagla, C.J. in - 'Batuk K. Vyas v. Surat Borough Municipality,AIR 1953 Bom 133' that no error could be said to be apparent on the face of the record if it was not self-evident and if it required an examination or argument to establish it. This test might afford a satisfactory basis for decision in the majority of cases. But there must be cases in which even this test might break down, because judicial opinions also differ, and an error that might be considered by one Judge as self-evident might not be so considered by another. The fact is that what is an error apparent on the face of the record cannot be defined precisely or exhaustively, there being an element of indefiniteness inherent in its very nature, and it must be left to be determined judicially on the facts of each case."

Therefore, it can safely be held that the petitioners have not made out any case within the meaning of Article 137 read with Order XL of the Supreme Court Rules and Order 47 Rule 1 CPC for reviewing the judgment in Sarla Mudgal case. The petition is misconceived and bereft of any substance."

13) In a review petition, it is not open to the Court to re-appreciate the evidence and reach a different conclusion, even if that is possible. Conclusion arrived at on appreciation of evidence cannot be assailed in a review petition unless it is shown that there is an error apparent on the face of the record or for some reason akin thereto. This Court, in Kerala State Electricity Board vs. Hitech Electrothermics & Hydropower Ltd. & Ors., (2005) 6 SCC 651, held as under:

"10. .....In a review petition it is not open to this Court to reappreciate the evidence and reach a different conclusion, even if that is possible. Learned counsel for the Board at best sought to impress us that the correspondence exchanged between the parties did not support the conclusion reached by this Court. We are afraid such a submission cannot be permitted to be advanced in a review petition. The appreciation of evidence on record is fully within the domain of the appellate court. If on appreciation of the evidence produced, the court records a finding of fact and reaches a conclusion, that conclusion cannot be assailed in a review petition unless it is shown that there is an error apparent on the face of the record or for some reason akin thereto. It has not been contended before us that there is any error apparent on the face of the record. To permit the review petitioner to argue on a question of appreciation of evidence would amount to converting a review petition into an appeal in disguise."

14) Review is not re-hearing of an original matter. The power of review cannot be confused with appellate power which enables a superior court to correct all errors committed by a subordinate court. A repetition of old and overruled argument is not enough to re-open concluded adjudications. This Court, in Jain Studios Ltd. vs. Shin Satellite Public Co. Ltd., (2006) 5 SCC 501, held as under:

"11. So far as the grievance of the applicant on merits is concerned, the learned counsel for the opponent is right in submitting that virtually the applicant seeks the same relief which had been sought at the time of arguing the main matter and had been negatived. Once such a prayer had been refused, no review petition would lie which would convert rehearing of the original matter. It is settled law that the power of review cannot be confused with appellate power which enables a superior court to correct all errors committed by a subordinate court. It is not rehearing of an original matter. A repetition of old and overruled argument is not enough to reopen concluded adjudications. The power of review can be exercised with extreme care, caution and circumspection and only in exceptional cases.

12. When a prayer to appoint an arbitrator by the applicant herein had been made at the time when the arbitration petition was heard and was rejected, the same relief cannot be sought by an indirect method by filing a review petition. Such petition, in my opinion, is in the nature of "second innings" which is impermissible and unwarranted and cannot be granted."

15) Review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of Order XLVII Rule 1 of CPC. In review jurisdiction, mere disagreement with the view of the judgment cannot be the ground for invoking the same. As long as the point is already dealt with and answered, the parties are not entitled to challenge the impugned judgment in the guise that an alternative view is possible under the review jurisdiction.

Summary of the Principles:

16) Thus, in view of the above, the following grounds of review are maintainable as stipulated by the statute:

A) When the review will be maintainable:-

(i) Discovery of new and important matter or evidence which, after the exercise of due diligence, was not within knowledge of the petitioner or could not be produced by him;

(ii) Mistake or error apparent on the face of the record;

(iii) Any other sufficient reason.

The words "any other sufficient reason" has been interpreted in Chhajju Ram vs. Neki, AIR 1922 PC 112 and approved by this Court in Moran Mar Basselios Catholicos vs. Most Rev. Mar Poulose Athanasius & Ors., (1955) 1 SCR 520, to

mean "a reason sufficient on grounds at least analogous to those specified in the rule". The same principles have been reiterated in Union of India vs. Sandur Manganese & Iron Ores Ltd. & Ors., JT 2013 (8) SC 275.

B) When the review will not be maintainable:-

(i) A repetition of old and overruled argument is not enough to reopen concluded adjudications.

(ii) Minor mistakes of inconsequential import.

(iii) Review proceedings cannot be equated with the original hearing of the case.

(iv) Review is not maintainable unless the material error, manifest on the face of the order, undermines its soundness or results in miscarriage of justice.

(v) A review is by no means an appeal in disguise whereby an erroneous decision is re-heard and corrected but lies only for patent error.

(vi) The mere possibility of two views on the subject cannot be a ground for review.

(vii) The error apparent on the face of the record should not be an error which has to be fished out and searched.

(viii) The appreciation of evidence on record is fully within the domain of the appellate court, it cannot be permitted to be advanced in the review petition.

(ix) Review is not maintainable when the same relief sought at the time of arguing the main matter had been negatived.

17) Keeping the above principles in mind, let us consider the claim of the petitioner and find out whether a case has been made out for interference exercising review jurisdiction.

18) Mr. Shanti Bhushan, learned senior counsel for the petitioner, once again took us through various earlier orders passed by this Court in respect of Taj Corridor Project and submitted that even if there is any invalidity of investigation and breach of mandatory provision, it is the duty of the Court exercising jurisdiction under Article 32 of the Constitution of India to take necessary steps by ordering the investigating agency to proceed further and take action in accordance with law. For the same, he relied on the judgments of this Court in H.N. Rishbud & Inder Singh vs. The State of Delhi, 1955 (1) SCR 1150 at page 1164 and Vineet Narain & Ors. vs. Union of India & Anr.,, (1998) 1 SCC 226. In H.N. Rishbud (supra), the following observation/conclusion is pressed into service:

".....It does not follow, however, that the invalidity of the investigation is to be completely ignored by the Court during trial. When the breach of such a mandatory provision is brought to the knowledge of the Court at a sufficiently early stage, the Court, while not declining cognizance, will have to take the necessary steps to get the illegality cured and the defect rectified, by ordering such reinvestigation as the circumstances of an individual case may call for."

19) In Vineet Narain (supra), by drawing our attention to paragraph 55, it was argued that the CBI must be allowed to investigate and the offender against whom a prima facie case is made out should be prosecuted expeditiously. In other words, according to him, it is the duty of the judiciary to enforce the rule of law and to guard against erosion of the rule of law. We make it clear that there is no second opinion on the above direction and we also reiterate the same.

20) Based on the above, at the foremost, it is submitted by Mr. Shanti Bhushan, learned senior counsel for the petitioner that on a reading of various orders of this Court, it is clear that FIR being RC No. 0062003A0019 of 2003 was lodged

under the orders and directions of this Court. In order to substantiate the above argument, Mr. Shanti Bhushan, once again, took us through earlier orders which were passed at the time of original hearing. In fact, the very same orders and arguments were advanced by the then Additional Solicitor General for CBI as well as Ms. Kamini Jaiswal, learned counsel on behalf of the intervener. In paragraph Nos. 18 to 23 of the order dated 06.07.2012, the very same contentions have been made, dealt with and duly considered at length and it was clarified that anything beyond the Taj Corridor matter was not the subject matter of reference before the Taj Corridor Bench and the CBI is not justifying in proceeding with FIR being RC No. 0062003A0019 of 2003 dated 05.10.2003 since the order dated 18.09.2003 does not contain any specific direction regarding lodging of FIR in the matter of disproportionate assets case against Ms. Mayawati-Respondent No. 1 herein.

21) After dealing with all those orders exhaustively, the contents of the FIR dated 05.10.2003 and taking note of the principles laid down by the Constitution Bench in State of West Bengal & Ors. vs. Committee for Protection of Democratic Rights, West Bengal & Ors., (2010) 3 SCC 571, this Court, in Mayawati vs. Union of India (2012) 8 SCC 106 arrived at the following conclusion:

"39. As discussed above and after reading all the orders of this Court which are available in the "compilation", we are satisfied that this Court being the ultimate custodian of the fundamental rights did not issue any direction to CBI to conduct a roving inquiry against the assets of the petitioner commencing from 1995 to 2003 even though the Taj Heritage Corridor Project was conceived only in July 2002 and an amount of Rs 17 crores was released in August/September 2002. The method adopted by CBI is unwarranted and without jurisdiction. We are also satisfied that CBI has proceeded without proper understanding of various orders dated 16-7-2003, 21-8-2003, 18-9-2003, 25-10-2004 and 7-8-2006 passed by this Court. We are also satisfied that there was no such direction relating to second FIR, namely, FIR No. RC 0062003A0019 dated 5-10-2003.

40. We have already referred to the Constitution Bench decision of this Court in Committee for Protection of Democratic Rights wherein this Court observed that only when this Court after considering the material on record comes to a conclusion that such material does disclose a prima facie case calling for investigation by CBI for the alleged offence, an order directing inquiry by CBI

could be passed and that too after giving opportunity of hearing to the affected person. We are satisfied that there was no such finding or satisfaction recorded by this Court in the matter of disproportionate assets of the petitioner on the basis of the status report dated 11-9-2003 and, in fact, the petitioner was not a party before this Court in the case in question. From the perusal of those orders, we are also satisfied that there could not have been any material before this Court about the disproportionate assets case of the petitioner beyond the Taj Corridor Project case and there was no such question or issue about disproportionate assets of the petitioner. In view of the same, giving any direction to lodge FIR relating to disproportionate assets case did not arise.

41. We finally conclude that anything beyond the Taj Corridor matter was not the subject-matter of reference before the Taj Corridor Bench,. Since the order dated 18-9-2003 does not contain any specific direction regarding lodging of FIR in the matter of disproportionate assets case against the petitioner, CBI is not justified in proceeding with FIR No. RC 0062003A0019 dated 5-10-2003. In view of the above discussion, we are satisfied that CBI exceeded its jurisdiction in lodging FIR No. RC 0062003A0019 dated 5-10-2003 in the absence of any direction from this Court in the order dated 18-9-2003 or in any subsequent orders."

Inasmuch as the very same point has been urged once again, in the light of the principles noted above, we are of the view that the same are impermissible.

22) We have also noted the principles enunciated in H.N. Rishbud (supra) as well as in Vineet Narain (supra). For the sake of repetition, we are pointing out that we have disposed of the earlier writ petition filed by the petitioner therein (respondent herein) based on the relief sought for, contents of the FIR dated 05.10.2003, earlier directions relating to Taj Heritage Corridor Project and arrived at such conclusion.

23) It is also made clear that we have not gone into any other aspect relating to the claim of the CBI, intervener or the stand of the writ petitioner therein (respondent herein) except the directions relating to Taj Heritage Corridor Project which was the only lis before us in Writ Petition being No. 135 of 2008.

In such circumstances and in the light of enormous decisions, we find that there is no material within the parameters of review jurisdiction to go into the earlier order dated 06.07.2012.

24) In the light of the above discussion, we once again reiterate that our decision is based on earlier directions relating to Taj Heritage Corridor Project, particularly, the order dated 18.09.2003, the contents of FIR being RC No. 0062003A0019 dated 05.10.2003, the relief prayed in the writ petition filed before this Court and we have not said or expressed anything beyond the subject matter of the dispute.

25) In the light of the above discussion, the review petition is disposed of with the above observation.