

SUPREME COURT OF INDIA

Mackintosh Burn Ltd.

Vs.

Sarkar & Chowdhury Enterprises Pvt. Ltd.

C.A.No.10807 of 2016

(Kurian Joseph and R.F.Nariman, JJ.,)

11.11.2016

JUDGMENT

Kurian Joseph, J.,

SLP (Civil)No.29122 of 2016

1. Leave granted.

2. Heard the learned senior counsel appearing for the parties. On 04.01.2016, this Court in Special Leave Petition (C) No 35029/2015 passed the following order:

"The learned counsel for the petitioner seeks permission to withdraw the special leave petition with liberty to approach the High Court. Permission is granted with the above liberty. Accordingly, the special leave petition is dismissed as withdrawn. We make it clear that we have not considered the special leave petition on merits."

3. It appears that the appellant filed an application before the High Court in the light of the order extracted above virtually for re-hearing of the appeal itself. It is fairly conceded by Mr. K.V. Viswanathan, learned senior counsel that once a party is permitted to go back to the High Court, the High Court can be approached only by way of review petition and therefore, there is no basis for the unreasonable stand taken in the High Court for not filing a review petition.

4. Having heard the learned senior counsel appearing for both sides, we are inclined to grant one more opportunity. Ordered accordingly. Therefore, this appeal is disposed of making it clear that in case a proper review petition is filed within two weeks from today, the same may not be dismissed on the ground of delay.