

The State of Madhya Pradesh Vs. Ram Kumar Pathak

The State of Madhya Pradesh Vs. Ram Kumar Pathak

SooperKanoon Citation : sooperkanoon.com/1048643

Court : Madhya Pradesh

Decided On : Oct-08-2012

Appellant : The State of Madhya Pradesh

Respondent : Ram Kumar Pathak

Judgement :

R.P.No.773/2012 08.10.2012 Shri Vijay Pandey, Deputy Advocate General for the petitioners. This review petition is filed against an order dated 18.07.2012 passed by this Court by which a writ appeal preferred by the respondents No.1 to 3 was allowed and the proceedings against them under Urban Land (Ceiling and Regulation) Act were declared as abated and they were held to continue to be owner of the land.

This order has been sought to be reviewed on following grounds:- (1) That the petitioners herein had already taken possession of the land so the land was vested with the State and there was no question of declaring the proceedings as abated.

(2) That when the possession was already taken by petitioners then there was no question of return of the possession.

(3) That even there was some defect in service of the notice under section 10(5) of the Act, then it by itself could not have been a ground to treat the proceedings as null and void.

(4) It was submitted that in view of law laid down by the Hon'ble Apex Court in the case of Omprakash Verma and others versus State of Andhra Pradesh and others.(2010) 13 SCC 158.the order may be reviewed.

This review petition is also barred by limitation.

So the petitioners have also filed an application I.A.No.11277/2012 seeking condonation of delay We have gone through the record and find that in order dated 18.07.2012 we have interpreted the provisions as contained in Section 10(5) of the Urban Land (Ceiling and Regulation) Act, 1976 and recorded a finding that 30 days notice was mandatory before dispossession of a holder and no such notice was issued in the matter.

Apart from this, the contention of the respondents that they were dispossessed from the land and in fact during pendency of the Writ Appeal No.734/2008, some persons were permitted to occupy the land, will not be a ground to show that in fact the respondents were dispossessed.

We have considered the aforesaid decision and found that in a review jurisdiction we cannot examine the correctness of the order.

Only when if there is some error apparent on the face of record or on the basis of some new fact which could not have been brought in the notice at the time of order, only then interference can be made.

Relying on judgment in the case of Kashinath Shilkar (supra) the writ appeal was decided and was allowed.

We have also examined in the writ appeal the alleged proceedings for taking possession of the land and in fact have recorded a finding in para 8 of the order that the factual possession on the spot was of the respondents on the date when the writ petition was filed or Repeal Act of 1999 came into force.

In view of aforesaid, we do not find any reason to review the order and review petition is accordingly dismissed.

As we have considered the review petition on merit, so it is not necessary for us to issue notice of I.A.No.11277/2012 seeking condonation of delay in filing this review petition.

The aforesaid application is also rejected.

In the result, this review petition is dismissed with no order as to costs.

(Krishn Kumar Lahoti) (Smt.

Vimla Jain) Judge Judge psm

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com