

P.K.Jose Vs. Aby.M

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SooperKanoon Citation : sooperkanoon.com/1164554

Court : Kerala

Decided On : Sep-17-2014

Judge : Honourable Mr.Justice T.R.Ramachandran Nair

Appellant : P.K.Jose

Respondent : Aby.M

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR & THE HONOURABLE SMT. JUSTICE P.V.ASHA WEDNESDAY, THE 17TH DAY OF SEPTEMBER 2014 26TH BHADRA, 1936 RP.No. 619 of 2014 IN WA.488/2013
----- AGAINST THE

JUDGMENT

IN WA4882013 OF HIGH COURT OF KERALA DATED 10/07/2014 REVIEW PETITIONER/APPELLANT: ----- P.K.JOSE, S/O LATE P.I KOCHUDEVASSY, RESIDING AT JOSEPH VILLA, SOUTH JANATHA ROAD, PALARIVATTOM PO, KOCHI - 25. BY ADV. SRI.DEVAN RAMACHANDRAN RESPONDENT(S)/RESPONDENTS IN W.P: ----- 1. ABY M., S/O M.J.

ULLAHANNAN, MOONJANATTU HOUSE, KATTAYAD POST NOW RESIDING AT VEMOM POST VINCENT GIRI - 52, MANANTHAVADY TALUK, WAYANAD

DISTRICT - 670 645.

2. KERALA STATE CONSUMER DISPUTES REDRESSAL COMMISSION, VAZHUTHACADU, THIRUVANANTHAPURAM REPRESENTED BY ITS REGISTRAR-695 001.

3. THE SPECIAL TAHSILDAR, REVENUE RECOVERY, KANAYANNOOR TALUK, ERNAKULAM, COCHIN - 11. R BY SRI.P.B.KRISHNAN R BY SRI.P.T.ANTONY R BY GOVERNMENT PLEADER SRI P.P.PADMALAYAN THIS REVIEW PETITION HAVING BEEN FINALLY HEARD ON 02/09-2014, THE COURT ON 17/09.2014 PASSED THE FOLLOWING: T.R.RAMACHANDRAN NAIR & P.V ASHA, JJ.

----- R.P No.619 of 2014 in W.A No.488 of 2013 ----- Dated this the day of September, 2014 h

ORDER

Asha, J.

The petitioner has filed this review petition, relying on an order passed by the National Consumer Disputes Redressal Commission on 15-7-2014 in Revision Petition No.2606/2013, in which it was held that the amendment brought about in the Consumer Protection Act did not dispense with the presence of the second member and that it was mandatory to have at least two members before the District Forum and the State Commission irrespective of the fact whether they are the President or not, to hear the appeal. The order passed by a Single-Member was set aside, being non-existent. The learned Counsel for the petitioner therefore asserted for a review of the judgment, pointing out that we did not follow the earlier orders of the National Commission, only because those orders related to transactions prior to amendment.

2. We are not at all impressed by the contentions raised by the learned counsel for the petitioner. The learned Single Judge had dismissed the Writ Petition filed by the petitioner after R.P No.619 of 2014 in W.A No.488 of 2013 2 interpreting the

relevant provisions contained in the Consumer Protection Act, Rules and Regulations. We found those findings are correct and upheld that judgment rendered under Article 226 and hence dismissed the Writ Appeal on merits.

3. Apart from the decision rendered by the National Commission, the petitioner has not urged any ground for seeking a review of our judgment. A subsequent judgment, even of a superior court is not a ground for review of a judgment. Under Order 47 rule 1 (c) of the Civil Procedure Code, the conditions under which an aggrieved person can seek review of a judgment are: (1) 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; (2) mistake or error apparent on the face of the record ; and (3) any other sufficient reason. Explanation to order 47 Rule 1 provides that the decision on a question of law on which the judgment of the court is based, has been released or modified by a subsequent decision of the superior court in any other case, cannot be a ground for review R.P No.619 of 2014 in W.A No.488 of 2013 3 of a judgment. In this case, there is no decision by a superior court. No mistake or error apparent on the face of the record, is brought to our notice, which warrants a review of the judgment. We do not find any satisfactory reason which is sufficient for review the judgment. Moreover we do not also, agree with the decision relied on by Sri.Devan Ramachandran. It is settled law that even an erroneous decision cannot be ground for review. (see Subramanian Swamy v. State of T.N [(2014) 5 SCC75, Haridas Das v. Usha Rani Bani [(2006) 4 SCC78, Meera Bhanja v. Nirmala Kumari Choudhury [AIR 1995 SC455, Aribam Tuleshwar Sharma v. Aribam Pishak Sharma [AIR 1979 SC1047 etc).

4. In case the petitioner is aggrieved by our judgment, the proper course for him, in our view, should have been to resort to appellate remedies. In the above circumstances we dismiss the Review Petition. Sd/- T.R.RAMACHANDRAN NAIR Judge Sd/- P.V.ASHA Judge rtr/ /truecopy/ P.S to Judge