

(2002) 07 KL CK 0001
In the High Court Of Kerala
Case No : L.A.A. No. 348 of 1989

Amrith Raj

APPELLANT

Vs

The Spl. Tahsildar (LA)

RESPONDENT

Date of Decision : 12-07-2002

Acts Referred:

Land Acquisition Act, 1894 — Section 23(1)A

Citation : (2002) 07 KL CK 0001

Hon'ble Judges : K.K. Denesan, J;J.B. Koshy, J

Bench : Division Bench

Advocate : V. Chitambaresh, for the Appellant;

Final Decision : Dismissed

Judgement

J.B. Koshy, J.—This petition styled as "petition for correction" is misconceived. L.A.A. 348 of 1989 by the petitioner herein was allowed by judgment dated 2nd April, 1998. All grounds taken in the appeal were considered in the judgment. There is no typographical, clerical or arithmetical error. There is no mistake in the judgment due to accidental slip or omission. In this connection we also refer to the Apex Court decision in Dwaraka Das Vs. State of Madhya Pradesh and Another, . It is the case of the petitioner that in view of the Constitutional Bench decision of the Apex Court, he is entitled to interest on solatium also. No such contention was raised in the appeal. No court fee was paid with reference to that in the appeal. The judgment became final more than four years ago. The Supreme Court in Union of India v. Swaran Singh and Others, (1996) 5 SCC 501 , held that after award and decree of Reference Court became final, Reference Court or High Court has no jurisdiction to entertain independent application under Sections 151 and 152 CPC and pass order granting enhanced solatium and interest in terms of the Amendment Act. In view of the above this petition is not maintainable.

2. Petitioner has not even filed a review petition paying court fee. It is well settled law that subsequent decision is not a ground for review on a point which

was not pleaded or contested before passing the judgment sought to be reviewed. What cannot be done directly by filing review petition cannot be done indirectly by filing a correction petition or clarification petition as held by the Apex Court in A.P. State Financial Corporation Vs. Official Liquidator, . Parties did not file an SLP hence the finding in L.A.A. became final in 1988 itself.

3. In the case reported in AIR 1999 SC 4915 relied on by the petitioner point regarding interest on solatium was specifically argued. At that time in view of the conflicting decision of the apex court matter was referred to constitutional Bench and matter was pending there. On those facts appeal was disposed of reserving right of the appellant in that case only to move for amendment after finding of the judgment of the constitutional Bench. Apex Court in the judgment did not give right to reopen all Land Acquisition Cases finally disposed of and finally settled to be amended or reviewed after judgment of the constitutional Bench regarding interest on solatium. There is no merit in the correction petition and hence dismissed.