

(1990) 11 OHC CK 0021

In the Orissa High Court

Case No : Civil Review No. 75/90 and M.C. No. 113/90

Collector

APPELLANT

Vs

Dharamu Sahu and Others

RESPONDENT

Date of Decision : 19-11-1990

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 47 Rule 1, Order 47 Rule 1(2), Order 47 Rule 9, 111, 114

Citation : (1990) 11 OHC CK 0021

Hon'ble Judges : P.C. Misra, J; L. Rath, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. This is an application u/s 111, read with Order 47, Rule 1, CPC praying for a direction/review of the order dated 30-11-1985 passed in Civil Review No. 5/85. This application, as reported, is barred by limitation by delay of 1669 days. Apart from the fact that there are no convincing grounds for condonation of delay in filing this application, we find that the application is also not maintainable. The judgment passed in F. A. No. 548/81 disposed of on 19-8-1982 was reviewed in Civil Review No 5/85 keeping in view the K. Kamalajammanniavar (Dead) by Lrs. Vs. Special Land Acquisition Officer, In the present application it has been stated that a different view has been taken in the decision reported in Union of India (UOI) and Another Vs. Raghubir Singh (Dead) by Lrs. Etc., for which reason the aforesaid order passed in Civil Review No. 5/85 requires further review or in the alternative the said order should be recalled in the interest of justice. The aforesaid prayer made by the Petitioner ignores the Explanation appended to Order 47, Rule 1, Sub-rule (2), CPC which says that the decision on a question of law on which the judgment of the Court is based has been reversed or modified by the subsequent decision of a superior Court in any other case, shall not be a ground for the review of such judgment. The case, as has already been disposed of, has reached a finality. A different view expressed in a subsequent decision of the Supreme Court could not be a ground either to recall the said order or to review

the same. On merits also this application is liable to be rejected.

2. We, therefore dismiss the civil review application.

Civil Review No. 5/85

05.11.1990

3. This is an application to review the order passed on 30-11-1985 in Civil Review No. 5/85. In the said Civil Review No. 5/85, this Court reviewed its earlier judgment passed in F. A. No. 548/81 disposed of on 19-8-1982. The judgment in the said First Appeal having once been reviewed, the second review application is not maintainable in view of the provisions contained in Order 47, Rule 9, CPC. Learned Addl. Government Advocate also concedes to the above proposition of law. This application is, therefore, dismissed as not maintainable.