
(2015) 01 P&H CK 0160

In the Punjab And Haryana At Chandigarh

Case No : Review Petition No. 8 of 2015 in C.W.P. No. 7345 of 2014

Dalip Kumar Jha

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 12-01-2015

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 1 Rule 10(2), Order 47 Rule 1, 114, 151
Constitution of India, 1950 — Article 25, 26

Citation : (2015) 2 RCR(Civil) 932

Hon'ble Judges : M.M. Singh Bedi, J

Bench : Single Bench

Advocate : D.S. Bali, Senior Advocate, Sahil Bali and Shalu Sharma, for the Appellant

Final Decision : Dismissed

Judgement

M.M. Singh Bedi, J.

1. This order will dispose of a review petition filed by Sadhvi Tapeswari Bharti, Sadhvi Parma Bharti, Swami Amitesh and Swami Radhakrishan under Order 47 Rule 1 CPC read with Section 114 and 151 CPC for review of the judgment dated 1.12.2014 by this Court in CWP-7345 of 2014, titled Dalip Kumar Jha v. State of Punjab and others, contending that although the contentions raised by the applicants with regard to their impleadment and for arraying them as respondent Nos. 4 to 7 for the purpose of adjudication of concept of "Samadhi" were considered in the judgment but on account of oversight they were not impleaded as respondent Nos. 4 to 7 and no specific adjudication of their claim has been rendered in the judgment. I have heard the learned senior counsel Mr. D.S. Bali, appearing on behalf of the applicants claiming that concept of "Samadhi" and the material produced by the applicants was necessary to be considered after impleading them as parties and that non-impleadment of the applicants pursuant to the misc. application is a patent error on the record and is required to be rectified.

2. Counsel has also submitted that on account of inadvertent mistake, the applicants were not impleaded depriving them an important right to file an appeal as the subject matter of the writ petition is sub judice before the LPA Bench.

3. I have considered the contentions of the applicants and carefully gone through the pleas raised for impleadment as party to the writ petition which has been decided taking into consideration the pleas raised by them.

4. So far as the applicants are concerned, their claim in their misc. application for impleadment and for adjudicating the writ petition was supplementary and in consonance with the pleas taken by respondent No. 3, Divya Jyoti Jagriti Sansthan through its trustees. The material pertaining to concept of "Samadhi" placed on record had to be taken into consideration by this Court for determining the factual and legal controversy involved in the writ petition. The contents of the application and the material pertaining to concept and theories of "Samadhi" were perused by this Court for the purpose of determining the controversy as well as for the purpose of deciding whether the applicants were required to be impleaded as respondent Nos. 4 to 7. It was only on consideration of the pleas of the applicants read with pleas of respondent No. 3 Divya Jyoti Jagriti Sansthan that this Court arrived at a conclusion that in view of the facts and constitutional provisions involved in the case the details of the concept of "Samadhi" were not subject to judicial review. However, the concept of "Samadhi" in context to the provisions of Articles 25 and 26 of the Constitution of India, has been taken into consideration. Mere fact that the plea is raised by the applicants and the material produced in support of the plea of Divya Jyoti Jagriti Sansthan has been considered and discussed in the judgment, will not confer any right on the applicants to be impleaded as respondent Nos. 4 to 7. The plea raised by the applicants was required to be taken into consideration even for determining whether their impleadment was necessary for the effective adjudication of the controversy involved in the writ petition. It is settled principle of law that the petitioner is dominus litis and it is the discretion of the Court in the exercise of powers under Order 1 Rule 10(2) CPC, to strike or add, at any stage of the proceedings, any person as party in case his presence is necessary, in order to enable the Court to effectively and completely adjudicate upon and settle all the questions involved in the proceedings.

5. After considering the plea of the applicants, which was in the nature of supporting material to the pleas raised by the Institution to which they belong i.e., respondent No. 3, it was not deemed necessary to implead the applicants as parties in the writ petition. It certainly appears to be an inadvertent mistake to have specifically not passed an order dismissing their application on consideration of their pleas. It is hereby clarified that the application for impleading the applicants will be deemed to have been dismissed on consideration of their pleas taken up in the writ petition, in context to the controversy involved, as the pleas raised regarding concept of "Samadhi" to the

extent of its relevance has been taken into consideration but is considered to be not subject to judicial review.

6. Since all the pleas taken by the applicants have been considered by this Court for dual purpose i.e., for impleading them as a party and for the purpose of determining the relevance of the material brought to the notice of the Court, I do not find any ground to allow this review petition in the exercise of powers under Sections 114, 151 or under Order 47 Rule 1 CPC. Even otherwise after the decision of the case, this Court has become functus officio, not entitled to review the order. Dismissed without prejudice to any rights of the applicants to avail any other legal remedy available to them in accordance with law.