
(2010) 10 UK CK 0031
In the Uttarakhand High Court
Case No : Special Appeal No. 145 of 2010

Prashant Jaiswal	Vs	APPELLANT
State of Uttarakhand and Others		RESPONDENT

Date of Decision : 05-10-2010

Acts Referred:

Motor Vehicles Act, 1988 — Section 68
Repealing and Amending Act, 2001 — Section 4

Citation : (2010) 3 UC 1972 : (2010) 2 UD 434

Hon'ble Judges : Prafulla C. Pant, J;Nirmal Yadav, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Prafulla C. Pant, J.—Heard learned Counsel for the parties.

2. This appeal is directed against order dated 09.02.2010, passed by learned Single Judge of this Court, in writ petition No. 1751 of 2009 (M/S) along with five other writ petitions whereby the said writ petitions have been dismissed.

3. The question raised in the writ petitions disposed of by the learned Single Judge vide impugned order dated 09.02.2010 relates to the effect of the Repealing and Amending Act, 2001 (Central Act No. 30 of 2001).

4. Learned Counsel for the Appellant submitted that by the Repealing and Amending Act, 2001 (Central Act No. 30 of 2001), the amendment made in Section 68 of the Motor Vehicle Act, 1988 vide Act No. 54 of 1994, stood repealed. In support of his contention, learned Counsel for the Appellant/writ Petitioners has placed reliance on the judgment dated 04.08.2008 passed by Division Bench of Allahabad High Court in writ petition No. 6027 (M/B) of 2008. We have gone through the said judgment and also considered the relevant provisions of law in the matter. With due regard, we are unable to agree with the view taken by Allahabad High Court. In view of the principle of law laid down by the Apex Court in the case of Jethanand Betab Vs. The State of Delhi (Now Delhi

Administration), , the purpose of Repealing and Amending Acts is to strike out the unnecessary Acts from the Statute book. We agree with the opinion taken by the learned Single Judge following the Apex Court ruling in the matter. It is settled principle that where the provisions of one Statute are, by reference, incorporated in another and the earlier Statute, is afterwards repealed, the provisions so incorporated obviously continue in force so far as they form part of the amended enactment.

5. If we go through Section 4 of the Repealing and Amending Act, 2001 (Central Act No. 30 of 2001), we find that it clearly provides that repeal shall not affect in any other enactment in which repealing enactment has been applied, incorporated or referred to.

6. Last paragraph of the Section 4 titled "Savings" of the aforesaid Repealing and Amending Act, 2001 (Central Act No. 30 of 2001) further provides that the repeal by the Act shall not revive or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

7. Referring to the case of Khuda Bux Vs. Manager, Caledonian Press, , the Supreme Court in Jethananad's case (supra) endorsed the view that such Acts (Repealing Acts) have no legislative effect but are designed for editorial revision, being intended only to excise dead matter from the Statute book, and to reduce its volume. In other words, such Repealing Acts are meant only to reduce the number of Amending Acts, after the amendment has been incorporated in the original Statute.

8. For the reasons, as discussed above, we find no force in this appeal, which is liable to be dismissed. Accordingly, the appeal is dismissed.