

(1996) 11 DEL CK 0017

In the Delhi High Court

Case No : Civil Writ Petition No. 1011 of 1987

Rajender Kumar Sharma and Another

APPELLANT

Vs

The Registrar, Co-operative Societies and Others

RESPONDENT

Date of Decision : 15-11-1996

Acts Referred:

Citation : AIR 1997 Delhi 189 : (1997) 1 ILR Delhi 205

Hon'ble Judges : Mohd. Shamim, J

Bench : Single Bench

Advocate : P. Nandrajog, for the Appellant; Mukul Rohtagi and Ravi Gupta and A.S. Chandhiok and Aditya Madan, for the Respondent

Judgement

1. The petitioners through the present petition have sought a declaration that the decision of the Registrar, respondent No. 1, conveyed vide letter dated June 18, 1985 to Harsh Vihar Co-operative House Building Society, respondent No. 3 is final and conclusive and binding on all, and the petitioners are the duly enrolled members of the respondent No. 3. They further want a declaration that Shri V. K. Mittal, respondent No. 4 (hereinafter referred to as respondent No. 4 for the sake of convenience) is not a member of the respondent No. 3-Society and all actions taken by the respondents on the assumption that respondent No. 4 is a member of the respondent No. 3-Society are null and void.

2. The present petition was dismissed as withdrawn qua the petitioner No. 1, Shri R. K. Sharma, vide order dated May 11, 1954 passed by this Court.

3. The case of the petitioner No. 2 as set up in the petition is as under: that respondent No. 3 developed a colony known as Harsh Vihar. It consisted of 221 plots of different sizes. One Shri Ram Swaroop Gupta was one of the members of the said Society. He was allotted plot No. 42 in the draw of lots held in May, 1976. He subsequently purchased a plot of land bearing No. 11784 at Shakti Nagar in the name of his wife. Consequently the said Ram Swaroop ceased to be a member of the Society. However, Shri Ram Swaroop Gupta alleged that he had

transferred his share in the Society in favor of respondent No. 4. Respondent No. 4, in view of the above, claimed himself to be a member of the Society in place of Ram Swaroop as he had purchased his share. Respondent No. 4 obtained a collusive compromise decree in his favor vide judgment and order dated April 27, 1979 whereby he was declared to be a member of the Society.

4. The Registrar, respondent No. 1, ordered an enquiry into the affairs of the Society vide his order dated December 4, 1981 u/s 55 of the Delhi Co-operative Societies Act. The said enquiry was conducted by Shri S. Parkash, Deputy Registrar, Co-operative Societies. He submitted his final report to the Registrar who conveyed it to the respondent No. 3-Society vide letter dated June 18, 1985. Transfer in favor of respondent No. 4 was held to be bad in law as the same was not in favor of a blood relation. He further found that there was a waiting list consisting of 54 members. Hence respondent No. 4 could not be allowed to by-pass the claim of those who were senior to him in the waiting list. The above report was implemented by the Society. As a corollary whereof the name of respondent No. 4, stood deleted from the list of the members of the Society.

5. However, later on it was learnt by the petitioners that a sub-lease deed had been executed in favor of respondent No. 4 in respect of plot No. 210 measuring 400 sq. yards by the DDA on December 17, 1985. The petitioners, thereupon wrote a letter to the respondent No. 3 and solicited information regarding the execution of the sub-lease deed. The respondent No. 3 informed the petitioner No. 1 vide letter dated January 27, 1986 that respondent No. 4 was not a member of the Society. No such lease deed was executed in his favor by the Society. The respondent No. 3 informed the Vice-Chairman, DDA that as per the inquiry report respondent No. 4 was not at all a member of the Society (vide letter dated December 30, 1985). The respondent No. 3 in connection with the above matter also wrote to different authorities.

6. The petitioners applied for membership of the society on July 9, 1976. Hence the seniority of the petitioners is to be reckoned from the said date. Respondent No. 4 applied for membership of the society on July 22, 1976. Respondent No. 4 is thus admittedly junior to the petitioners. Respondent No. 4 also failed to comply with the mandatory requirement of the Rules 24 and 30(4) of the Co-operative Societies Rules. The name of respondent No. 4 was illegally included in the draw of lots on February 8, 1980. The said draw of lots was otherwise illegal in view of the letters written by the Deputy Registrar, Co-operative Societies dated February 28, 1980 to, the effect that the name of the respondent No. 4 was unauthorisedly included in the draw of lots. Unfortunately the respondent No. 1 reviewed his own earlier decision, without notice to the Society at the instance of respondent No. 4 and directed the execution of the sub-lease in his favour. The petitioners have now come to know that even the respondent No. 3 has changed sides and the present Managing Committee have passed a resolution on March 4, 1987 holding the respondent No. 4 to be a valid member

of the society and entitled to a plot.

7. The respondent No. 4 could not have acquired a better title than that of his transferor Shri Ram Swaroop. The alleged sub-lease deed was executed by the Vice-President of respondent No. 3 who was never authorised to do so. No resolution to authorise him to execute a sub-lease in favor of respondent No. 4 was ever passed by respondent No. 3. Registrar, Co-operative Society has got no power to review his earlier order dated June 18, 1985.

8. The respondent No. 4 put in contest inter alia, on the following grounds: that the respondent No. 3. has got three types of plots to be allotted to the members.

Category A -- Each plot of 400 sq. yards.

Category B -- Each plot of 200 sq. yards.

Category C -- Each plot of 170 sq. yards.

One Ram Swaroop was a member of the respondent No. 3. He had been allotted a plot bearing No. 42 of Category A type. Subsequently he ceased to be a member of the Society whereupon he agreed to transfer the said plot to him. Consequently he applied for becoming a member of the said Society. He further requested that the plot allotted to Shri Ram Swaroop be allotted to him. He was informed through a letter dated August 2, 1976 by the President of respondent No. 3 in regard to a resolution passed by the Managing Committee accepting his application for becoming a member of the Society. Later on the Land and Building Department, Delhi Administration, through their letter dated January 3, 1978 informed the Deputy Registrar, Co-operative House Building Society, that the transfer of membership could not be recognised because he was not one of the blood relations of the said Ram Swaroop. However, the Society was free to treat him as a fresh member. He thus got apprehensive and filed a civil suit for declaration and injunction against respondent No. 3 and the said Shri Ram Swaroop on March 6, 1978. Eventually the said suit was decreed on April 27, 1979 in terms of compromise which was entered into in between the parties. He in terms of the said compromise was treated as a member of the Society w.e.f. July 22, 1976. He gave up his claim for plot No. 42. Instead he was held entitled to one-plot out of 14 plots of the size of 400 sq. yards each which were lying unallotted by that time. The Land and Building Department also cleared his name through their letter dated January 21, 1980 for becoming a member of the respondent No. 3 w.e.f. July 22, 1976 and as a consequence thereof his entitlement to allotment of a plot. The Land and Building Department subsequently permitted the respondent-Society to hold a draw of lots on February 8, 1980. He was allotted plot No. 210 measuring 400 sq. yards in the said draw of lots. The possession over the said plot was handed over to him on March 7, 1980. The Registrar, Cooperative Societies, also cleared his name vide his letter dated 3/4th December, 1985 and he was held to have become a valid member of the Society w.e.f. July 30, 1976 and was as such held entitled to a plot of land that had already been allotted to him. In view of the above, a

perpetual sub-lease was executed in his favor in respect of the above said plot on December 17, 1985.

9. It is amply clear from above that he applied for a plot in Category A, the area whereof is 400 sq. yards, whereas the present petitioner applied for a plot in Category B, the area whereof is 200 sq. yards only. The petitioner No. 1, on the other hand, applied for a plot in Category C. The area of the plot in the said category is 170 sq. yards each. Thus none of them has got a locus standi to question the allotment of the plot made to him i.e. respondent No. 4 inasmuch as the petitioners have got absolutely no concern with any plot in Category A, Hence the petition is liable to be dismissed on this short ground alone. The applications moved by the petitioners do not bear any date. The present writ petition is highly belated inasmuch as it has been filed after 7 years of the draw of lots held on February 8, 1980 and the delivery of possession on March 27, 1980. The petitioners are guilty of undue delay and laches. The petition is thus liable to be dismissed. The present petition is also barred by the principles of rest judicial inasmuch as there is a subsisting decree passed by a Civil Court in his favor on April 27, 1979. An alternative efficacious remedy is available to the petitioners by way of reference u/s 60 of the Delhi Co-operative Societies Act ("the Act" for short) inasmuch as there is a dispute in between the petitioners and the respondent No. 4 with regard to the membership. The petitioners could also have filed a civil suit for setting aside the decree. The report of the enquiry alleged to have been conducted by the Assistant Registrar u/s 55 of the Act dated June 17, 1985 is of no avail to the petitioners. The findings of the said enquiry report are not binding on the respondent No. 4 inasmuch as he was never given an opportunity to defend himself during the course of the proceedings of the said enquiry. In fact he never know about the said enquiry. He came to know with regard to the same through the letter of the Society on September 26, 1985. The petition is false and frivolous and is thus liable to be dismissed.

10. Respondent No. 3 have supported the case of respondent No, 4 through an affidavit filed by Shri Shiv Kumar Aggarwal, Secretary of the Society.

11. Similarly, an affidavit has been filed for and on behalf of respondent No. 1 sworn by Shri D. N. Tyagi, Assistant Registrar. He has also supported the case of the respondent No. 4.

12. Then there is an affidavit filed by respondent No. 2 sworn by Ms. Janak Juneja, the then Secretary of the DDA. She has also tried to substantiate the defense version as set up by the respondent No. 4. However, none appeared for and on behalf of respondents Nos. 1 and 2 during the lengthy arguments advanced by the parties.

13. learned counsel for the respondent No. 4 Mr. Mukhi Rohatgi, Senior Advocate, has raised a preliminary objection with regard to the maintainability of the present petition. His submission is two fold. According to him, the present

petition is not maintainable inasmuch as the same has been brought forward after an inordinate delay. Hence the petition is barred by laches and acquiescence. The next limb of the argument of the learned counsel is that equally efficacious alternative remedy by way of reference u/s 60 of the Act was available to the petitioner. Hence the petitioner should have approached the Registrar with a request to make a reference of the disputes in between the parties to an Arbitrator u/s 60 of the Act.

14. Learned counsel for the petitioner Mr. Pradeep Nandrajog has urged to the contrary. According to him, the present case pertained to the year 1987. The same is now being disposed of in the year 1996. If it is now held at this belated stage that the petition is not maintainable, in view of the equally efficacious alternative remedy available to him, u/s 60 of the Act, would cause irreparable loss and damage to the petitioner inasmuch as he would be driven back to approach the Registrar after 9 years u/s 60 of the Act. Thus the petitioner would be at the same stage where he was in the year 1987 when he filed the present petition. The learned counsel in this connection has relied on the observations of a single Judge of this Court as *Sushila Devi Bhaskar Vs. Ishwar Nagar Cooperative House Building Society Ltd. and Others*, ... "Held that in the present case the writ petition was filed in June 1984, and on June 26, 1984, only show cause notice was issued. The rule was issued only on October 12, 1984, after hearing the parties. Seven years later, now to hold that the writ petition is not maintainable, on the ground, that alternate remedy is available, would be very unjust to the petitioner. Moreover, the plot in question, has been reverted back to the Society, by a resolution, passed by the Managing Committee, on the basis of a meaning, given to Section 26 of the Act. For these reasons, and also for the reasons, which I will state, while dealing with the resolution of the Society, I am of the view that the writ petition is maintainable, even if, it is held that alternate remedy is available." Admittedly the respondent No. 4 was granted the membership of the respondent No. 3 on July 30, 1976. The said fact was communicated to him vide letter dated August 2, 1976 issued by the President of the Society. He was informed through the said letter that a resolution was passed by the Managing Committee; unanimously accepting his application for becoming a member of the Society (Annexure-D). The respondent No. 4 later on filed a suit against the Society in the year 1978 in the Court of Sub-Judge, 1st Class, Delhi (vide Suit No. 85/78 -- Annexures-G, H, I and J). The said suit was decided by the learned Sub-Judge on April 27, 1979 (Annexure R-4). The suit was decreed in terms of compromise. The respondent No. 4 was held entitled to a plot out of the 14 plots which were available with the Society. It was further declared that he had become a member of the Society w.e.f. July 22, 1976. Subsequently draw of lots was held on February 8, 1980 (vide Annexure-M). The respondent No. 4 was allotted a plot No. 210 measuring 400 sq. yards vide the said draw. Later on the possession over the said plot was handed over to the respondent No. 4 (vide Annexure-N) as is manifest from the letter dated March 7, 1980. Thus the petitioner in the instant case for the best reasons known to him knocked at the

doors of this Court after a period of 2 years from the date of allotment of the plot No. 210 in favor of the respondent No. 4 and from the delivery of Us possession. Thus he continued to sleep over his rights and awoke from his deep slumber at highly belated stage. Thus it can be easily concluded from the above that the petitioner acquiesced in the facts and events which were admittedly to his detriment without raising even a tiny finger of protest. There is no Explanation ,much less a reasonable Explanation ,for having waited for such a long time to agitate his rights, if any, against the respondents.

15. Admittedly the petitioner has approached this Court under Art. 226 of the Constitution of India. Before doing so the petitioner is under an obligation, howsoever onerous it may be, to show to this Court that he did so at the earliest possible opportunity. It is now a well-recognised principle of law that those who sleep over their rights and allow their rights to be obliterated and that of others to be ripened into full fledged rights would not be helped by Courts under Art. 226 of the Constitution and the Courts would refuse to come to their rescue. The Courts of Law will help those who help themselves. This Court is supported in its above view by the observations of their Lordships of the Supreme Court State of Orissa Vs. Pyarimohan Samantaray and Others, ,...."It would thus appear that there is justification for the argument of the Solicitor General that even though a cause of action arose to the petitioner as far back as 1962, on the rejection of his representation on November 9, 1962, he allowed some eleven years to go by before filing the writ, petition. There is no satisfactory Explanation of the inordinate delay for, as has been held by this Court in Rabindranath Bose and Others Vs. The Union of India (UOI) and Others, , the making of repeated representation, after the rejection of one representation, could not be held to be a satisfactory Explanation of the delay. The fact Therefore remains that the petitioner allowed some 11 years to go by before making a petition for the redress of his grievances. In the meantime a number of other appointments were also made to the Indian Administrative Service by promotion from the State Civil Service, some of the officers received promotions to higher posts in that service and may even have retired..... The High Court therefore, erred in rejecting the argument that the writ petition should be dismissed because of the inordinate and unexplained delay even though it was "strenuously" urged for its consideration on behalf of the Government of India."

16. The above view was reiterated by their Lordships of the Supreme Court State of M.P. and Others Vs. Nandlal Jaiswal and Others, "It is well settled that the power of the High Court to issue an appropriate writ under Art. 226 of the Constitution is discretionary and the High Court in the exercise of its discretion does not ordinarily assist the tardy and the indolent or the acquiescent and the lethargic. If there is inordinate delay on the part of the petitioner in filing a writ petition and such delay is not satisfactorily explained, the High Court may decline to intervene and grant relief in the exercise of its writ jurisdiction .The evolution of this rule of laches or delay is premised upon a number of factors. The High Court does not ordinarily permit a belated resort to the extraordinary remedy

under the writ jurisdiction because it is likely to cause confusion and public inconvenience and bring in its train new injustices. The rights of third parties may intervene and if the writ jurisdiction is exercised on a writ petition filed after unreasonable delay, it may have the effect of inflicting not only hardship and inconvenience but also injustice on third parties."We may point out that in R. D. Shetty's case (Ramana Dayaram Shetty Vs. International Airport Authority of India and Others,), even though the State action was held to be unconstitutional as being violative of Article 14 of the Constitution, this Court refused to grant relief to the petitioner on the ground that the writ petition had been filed by the petitioner more than five month after the acceptance of the tender of the fourth respondent and during that period, the fourth respondent had incurred considerable expenditure, aggregating to about Rs. 1.25 lacs in making arrangements for putting up the restaurant and the snack bar...."

17. In the above circumstances this Court finds that the present petition is highly belated and barred by the laches and acquiescence.

18. This brings this Court to the next argument advanced by Mr. Rohatgi that equally efficacious remedy by way of reference u/s 60 of the Act to arbitration was available to the petitioner. Hence the petitioner should have approached the Registrar u/s 60 of the Act instead of approaching this Court under Art. 226 of the Constitution of India.

19. It is a well recognised principle which has ripened now almost into a rule of law that where a statutory remedy is available to a particular party the Court would not allow the said party to approach this Court under Art. 226 of the Constitution of India. The underlying idea of the said principle is that where there is alternative remedy available to a party the said party must first exhaust that remedy before approaching this Court. Had this not been so every body would like to approach this Court under Art. 226 simply because the alternative remedy, according to him, is more arduous and strenuous with the result that the statutory provisions under an Act would become almost meaningless and non-existent. This Court is fortified in the above view by the observations of the Hon'ble Supreme Court Rashid Ahmed Vs. The Municipal Board, Kairana, ,.... "There can be no question that the existence of an adequate legal remedy is a thing to be taken into consideration in the matter of granting writs, but the powers given to this Court under Art. 32 are much wide and are not confined to issuing prerogative writs only."

20. To the same effect are again the observations of their Lordships of the Supreme Court Union of India (UOI) Vs. T.R. Varma, , "It is well settled that when an alternative and an equally efficacious remedy is open to a litigant, he should be required to pursue that remedy and not invoke the special jurisdiction of the High Court to issue a prerogative writ. It is true that the existence of another remedy does not affect the jurisdiction of the Court to issue a writ, but, the existence of an adequate legal remedy is a thing to be taken into consideration in the matter of granting writs. . . . And where such remedy exists,

it will be a sound exercise of discretion to refuse to interfere in a petition under Art. 226, unless there are good grounds therefore."

21. It was then observed by the Hon'ble Supreme Court in Assistant Collector of Central Excise, Chandan Nagar, West Bengal Vs. Dunlop India Ltd. and Others, ,... .." Article 226 is not meant to short circuit or circumvent statutory proceedings. It is only where statutory remedies are entirely ill- suited to meet the demands of extraordinary situations, as for instance where the very virus of the statute is in question or where private or public wrongs are so inexplicably mixed up and the prevention of public injury and the vindication of public justice require it that recourse may be had to Article 226 of the Constitution. But then the Court must have good and sufficient reason to bypass the alternative remedy provided by the statute."

22. With the above background let us now see as to whether an alternative remedy is available to the petitioner in the instant case? Admittedly there is a dispute in between the petitioner and the respondent No. 4 regarding the membership of the co-operative society. The said dispute falls within the domain of "disputes" which find a mention in Section 60 of the said Act. Hence the petitioner before coming to this" Court must have taken recourse to the said Section i.e. Section 60 of the Act for ventilating his grievances. Delhi Cooperative Societies Act is a special enactment which provides a solution for almost all the grievances concerning the constitution, management or business of a co-operative society which arise among members. Hence the petitioner before coming to this Court must have sought the redressal of his grievances through the machinery provided under the Act. Thus this Court feels that the petition is not maintainable on this ground also.

23. It has been urged for and on behalf of the respondent No. 4 that the respondent No. 3 has got three types of plots only. Category A consists of plots of 400 sq. yards each, whereas Category B comprises of plots measuring 200 sq. yards each. On the other hand, the plots in Category C are of and area of 170 sq. yards each. The petitioner Sohan Lal applied for a plot of 200 sq. yards only as is fully manifest from his application (Annexure M) and the share certificate issued to him on January 1, 1979 (vide Annexure R-4C). The said application which is on a printed form does not bear any date. However, the application which is a handwritten one is dated July 8, 1976. The petitioner thus applied for a plot of 200 sq. yards only whereas the respondent No. 4 applied for a plot of 400 sq. yards. Thus the petitioner Sohan Lal and the respondent No. 4 Vinod Kumar applied in different categories altogether and they both operated in different spheres. Hence I feel that the petitioner should not and cannot have any grievance against the respondent No. 4. He can be said to have a grievance, if any, against those applicants which applied for the plots of same size in Category B.

24. There is another aspect of the matter. I have already observed above that the respondent No. 4 became a member on July 30, 1976 (vide Annexures G, H,

I & J) whereas the petitioner Sohan Lal was enrolled as a member on January 25, 1979. The share certificate was issued on January 15, 1979. He paid the enrolment money and share money on January 15, 1979 (vide para 12 of the counter-affidavit of respondent No. 3). Thus the respondent No. 4 even became a member at a much earlier stage i.e. near about two and a half years before the petitioner was enrolled. Learned counsel for the petitioner while animadverting on the said aspect of the matter has made a futile attempt to show the petitioner senior to respondent No. 4 by relying on his application dated July 9, 1976. To my mind, the seniority in the society is to be computed from the date a particular person was enrolled as a member of the society. Thus the petitioner is much junior to the respondent No. 4. Hence the petitioner should not nurse a grievance in regard to the allotment of plot to the respondent No. 4 who is far more senior to him.

25. Learned counsel Mr. Pradeep Nan-dragon has vehemently contended that an enquiry was ordered into the affairs of the society u/s 55 of the Act as is manifest from the enquiry report dated June 17, 1985 (vide Annexure P-2). The enquiry officer came to the conclusion that the respondent No. 4 was not a validly enrolled member of the respondent No. 3. Thus the learned counsel has contended on the basis of the above report that it should be held that the respondent No. 4 was not a member of the respondent No. 3 at any point of time and was thus not entitled to any plot of land. The contention of the learned counsel is devoid of any force.

26. Admittedly the enquiry officer while conducting the said enquiry never gave any opportunity to the respondent No. 4 to appear before him and to put forward his case by way of defense. In fact it was the respondent No. 3 society which informed the respondent No. 4 with regard to the enquiry report (vide Annexure 2(i)). The respondent No. 4 immediately thereupon took up the matter with the Secretary of the Society vide his letter dated October 3, 1985 (vide Annexure 2(ii)). The respondent No. 3 society thereafter in reply to the above said letter dated October 3, 1985 of the respondent No. 4 informed him vide their letter dated October 11, 1985 that any objection in this regard be taken up with the Registrar, Co-operative Societies (vide Annexure 2(iii)). It thus becomes abundantly clear from above that the respondent No. 4 was never given any opportunity to put forward his case. Thus the said enquiry was an ex parte affair and as such it could not have affected the rights of respondent No. 4.

27. There is another side of the picture. The Registrar, Co-operative Societies, informed the President of the Society vide letter dated December 3, 1985 that the case with regard to the membership of respondent No. 4 was reviewed and it had then been decided that he was a valid and legal member of the society w.e.f. July 30, 1976. Thus, in view of the above, the findings of the enquiry officer were set at naught subsequently by the order passed by the Registrar, Co-operative Societies (vide Annexure R-4(x)) and the Delhi Administration vide their letter dated January 21, 1980 (vide Annexure 81-D).

28. Learned counsel for the petitioner has then contended that the respondent No. 4 applied for being enrolled as a member of the respondent No. 3 society in place of Shri Ram Swaroop who was one of the members of the society and was allotted plot No. 42 in the draw of lots held in May 1976. Shri Ram Swaroop ceased to be a member of the society as he had acquired a plot of land in the name of his wife at Shakti Nagar in the year 1975. Admittedly Shri Ram Swaroop was not a blood relation of the respondent No. 4. Hence the plot in the name of Shri Ram Swaroop could not have been transferred to him and it was rightly held so by the Delhi Administration in a letter dated February 9, 1978 addressed to the Deputy Registrar, Co-operative Societies (vide Annexure F) and in a subsequent letter from the Delhi Administration to the Hony. Secretary of the Society dated March 16, 1970 (vide Annexure 81-B) w.e.f. July 30, 1976, (vide Rule 25(c) of the Co-operative Societies Rules). While raising the above contention the learned counsel is oblivious of the fact that the respondent No. 4 was treated as a new member of the Society and was allotted plot bearing No. 210 instead of plot No. 42 which had been allotted to Shri Ram Swaroop. The said fact is amply clear from the letter dated January 21, 1980 from the Delhi Administration addressed to the Hony. Secretary of the respondent No. 3 society, and the copy of the resolution dated March 4, 1987 passed by the Managing Committee of the respondent No. 3 (vide Annexure P-21).

29. The next argument advanced by the learned counsel for the petitioner is that the Registrar, Co-operative Societies, reviewed his earlier order dated December 4, 1985 and held that the respondent No. 4 was not a member of the Society and the Society was free to allot the plot to any other eligible member (vide para 36 of the counter-affidavit filed by Shri D. N. Tyagi, Assistant Registrar, Co-operative Societies). Hence the learned counsel wants that this should be held that the respondent No. 4 is not a validly enrolled member of the Society.

30. I am sorry I am unable to agree with the contention of the learned counsel. Admittedly no such order has been placed on record. Furthermore, a perusal of para 36 of the aforementioned affidavit goes to show that the Law Department opened that the Registrar was not empowered to review his earlier order dated December 4, 1985. Moreover, the concluding lines of para 37 of the above said affidavit reveal that the decision of the Registrar dated May 22, 1986 was never communicated to the parties. In the above circumstances I feel that the learned counsel for the petitioner could not draw any sustenance from the above said affidavit.

31. In the circumstances stated above I do not see any force in the present petition. It is hereby dismissed with costs.

32. Petition dismissed.