

(2004) 03 SC CK 0110

In the Supreme Court Of India

Case No : Petition (s) for Special Leave to Appeal (Civil) No. 4376-4381 of 2004

Suseel Finance and Leasing Company

APPELLANT

Vs

M. Lata and Others

RESPONDENT

Date of Decision : 19-03-2004

Acts Referred:

Citation : (2004) 03 SC CK 0110

Hon'ble Judges : S.N. Variava, J;H.K. Sema, J

Bench : Division Bench

Advocate : K.V. Vishwanathan, Anand and Abhijit Sengupta, for the Appellant;
C. Paramasivam and Rakesh K. Sharma, for the Respondent

Final Decision : Allowed

Judgement

1. These Special Leave Petitions are against an order dated 12th December, 2003 passed in Review Petitions. It must be mentioned that against the main judgment Special Leave Petitions had earlier been filed. However, when those Special Leave Petitions reached hearing on 1st September, 2003, the following order came to be passed:

After arguing for some time, the Learned Counsel for the Petitioners seeks permission to withdraw the special leave petitions to seek review of the order of the National Commission. Permission is granted. Accordingly, the special leave petitions are dismissed as withdrawn.

It is clear from the Order that the matter was argued for some time. It is clear that the Court was against the Petitioners. Thus, as has become common now-a-days, counsel applied for withdrawal on the ground that a review will be applied for.

2. Thereafter the review applications were filed before the High Court which have now been dismissed. By these Special Leave Petitions the Order dismissing the Review Petitions has been challenged.

3. In the case of Shanker Motiram Nale VS . Shilolsing Gannusing Rajput, (1994) 2 SCC 753 it has been held by this Court that against an order rejecting an application for review, a SLP is not maintainable. This authority is directly on the point in issue. Not only we are bound by it but we are also in agreement with it. Faced with this situation, it is sought to be submitted that this Court in the cases of Green View Tea and Industries Vs. Collector, Golaghat, Assam and Another, and K. Rajamouli Vs. A.V.K.N. Swamy, , have taken contrary views. We find that in these two cases the question whether a SLP was maintainable against an Order rejecting a Review Petition, was not considered at all. In those cases, the question was whether SLP was barred by principles of res judicata. It has been held that SLP is not barred by principles of res judicata. In neither of those cases reference has been made to the above mentioned judgment of this Court in Shankar Motiram Nale's case (supra). In both those cases it has been held that a SLP is maintainable only in the context of it being barred on principles of res judicata. In both those cases the question whether a SLP is against an Order disposing of a Review Petition was not considered at all. These cases therefore have no relevance at all. On the basis of the ratio in Shankar Motiram Nale's case (supra), we hold that these Special Leave Petitions are not maintainable. They are dismissed as such. There will be no order as to costs.