

(2018) 02 J&K CK 0050
In the Jammu And Kashmir High Court
Case No : 201 of 2003

Union of India

APPELLANT

Vs

Chain Singh & ors

RESPONDENT

Date of Decision : 08-02-2018

Acts Referred:

Citation : (2018) 02 J&K CK 0050

Hon'ble Judges : Ramalingam Sudhakar

Bench : Single Bench

Final Decision : Dismissed

Judgement

1. Despite orders passed by this Court on 06.08.2014, 20.08.2014 and 22.07.2016, no steps have been taken by learned counsel for the appellant to bring the legal representatives of respondent Nos.1, 7 and 32 on record.

2. None appeared on behalf of the appellant on 02.08.2016. Today when the matter is taken up, none appears on behalf of the appellant. It appears that the cause for which the instant appeal was filed, does not survive at this point of time.

3. The Hon'ble First Division Bench of this Court in its order dated 29.11.2017 in LPASW No.190/2017 titled Bijoy Kumar Choudhary vs.

Union of India & ors. held as follows:-

1. The learned counsel for the appellant has raised a solitary ground for challenging the order dated 24.05.2017. The ground is that the writ petition has been dismissed on merits without hearing the petitioner. It is his submission that, in case the petitioner was unrepresented, the petition may have been dismissed for non-prosecution but not on merits, without hearing

the petitioner.

2. We have also heard the learned counsel for the respondents.

3. We agree with the learned counsel for the appellant that, non-appearance of the petitioner could have resulted in the dismissal of the writ petition

in default/non-prosecution. The same ought not to have been decided on merits without the presence of the petitioner or his counsel.

4. Consequently, the impugned order dated 24.05.2017 is set aside on his ground alone. SWP No. 339/2017 is restored before the learned Single

Judge, who shall dispose of the same on merits, in case the learned counsel for the petitioner/appellant is present for arguments.

5. The said writ petition be listed before the Single Judge, as per roster, in the first instance on 06.12.2017.

6. Counsel on both sides are present and they assure this Court that they will be present before the learned Single Judge on that date.

7. We are making it clear that we have not expressed any view on the merits of the matter and it shall be entirely open to the learned Single Judge

to decide the case in accordance with law.

8. The appeal stands disposed of.

4. In view of the above order, the instant appeal stands dismissed for non-prosecution.