
(1994) 02 PAT CK 0003
In the Patna High Court
Case No : S.C.A. No. 14 of 1991

Yogendra Singh

APPELLANT

Vs

The Additional Member, Board of Revenue and Others

RESPONDENT

Date of Decision : 28-02-1994

Acts Referred:

Constitution of India, 1950 — Article 133, 134A

Citation : (1994) 1 PLJR 567

Hon'ble Judges : K.S. Paripoornan, C.J.;N.K. Sinha, J

Bench : Division Bench

Advocate : Raghubansh Singh, Om Prakash Srivastava and Nand Lal Kr. Singh, for the Appellant; None, for the Respondent

Final Decision : Dismissed

Judgement

K.S. Paripoornan, C.J. and N.K. Sinha, J.—This application has been filed under Article 133 of the Constitution of India praying for the issue of a certificate to appeal to the Supreme Court of India against the judgement and order passed in C.W.J.C. No. 7329 of 1989 dated 20.12.90. The aforesaid order was passed by a Division Bench of this Court. This application has been filed on 21.2.1991. The application under Article 133 of the Constitution of India is to be considered along with Article 134A of the Constitution of India. Under Article 134A (b) provision is made for oral application by or on behalf of the party aggrieved, immediately after the passing or making of such judgment, decree, final order or sentence. In this case, no oral application was made on behalf of the Petitioner immediately after the passing of the judgment or order. This written application has been made merely one month after the order was passed. We are of the view that, after amendment of the Constitution, since a provision has been made under Article 134A (b), for an oral application to be made immediately after the passing or making of the judgement, decree, final order or sentence, no written application is contemplated or is maintainable. On this short ground, this application deserves to be dismissed. We do so.

2. Learned Counsel for the Petitioner laid stress on the fact that this Court by an order dated 3.12.91 opined that an application for review, with limitation petition may be filed. We are told that such an application was filed and it was dismissed. We do not find that any oral application was made in that proceeding also for the grant of a certificate under Article 133 read with Article 134A of the Constitution. The mere fact that this Court opined that the Petitioner may file an application for review will not in any manner enable him to contend that this written application is maintainable for the issue of a certificate under Article 133 read with Article 134A of the Constitution of India. Apart from the fact that a written application is not contemplated under Article 133 read with Article 134A of the Constitution, the written application itself was filed, not immediately but long after the passing of the order or the judgement. It was filed more than one month after the judgement or order was passed. On that ground also this application deserves to be dismissed. We dismiss this application.

3. We are fortified in taking above view in the light of the Full Bench decision of Karnataka High Court, reported in Keshava S. Jamkhandi, Petitioner v. Ramchandra S. Jamalkhandi, Respondent AIR 1981 Kar 97 which has our concurrence.