

ITEM NO.5

COURT NO.2

SECTION XV

S U P R E M E C O U R T
O F I N D I A RECORD
O F P R O C E E D I N G S

IA 12-13/2013 in Petition(s) for Special Leave to Appeal
(Civil) No(s).29956-29957/2011
(From the judgement and order dated 19/08/2011
in DBSANO.493/2010, DBSA No.494/2010, DBCRP No.86/2011, DBCRP
No.87/2011 of The HIGH COURT OF RAJASTHAN AT JAIPUR)

L.I.C.

Petitioner(s)

V E R S U S

KRISHNA MURARI LAL ASTHANA & ORS.ETC.

Respondent(s)

(for substitution and dismissal of SLP and seeking
permission to file additional documents and with prayer for
interim relief and office report)

Date:08/08/2013 These Petitions were called on for hearing
today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI

HON'BLE MR. JUSTICE SUDHANSU JYOTI MUKHOPADHAYA

For Petitioner(s)

Dr. Abhishek Manu Singhvi, Sr. Adv.
Mr. Ashok Panigrahi, Adv.

For Respondent(s)

Mr. Nidhesh Gupta, Sr. Adv.
Mr. R.K.Singh, Adv.
Mr. Kumar Gaurav, Adv.

UPON hearing counsel the Court made the following
O R D E R

The applications for substitution are
allowed in terms of the prayer made.

This matter has been listed for consideration
of I.A. Nos.12-13 of 2013 filed on behalf of respondent
No.1 for dismissal of the special leave petitions on the
ground that the petitioner-Life Insurance Corporation of

India has not questioned judgment dated 21.01.2011 passed by the Division Bench of the High Court dismissing the special appeals filed by it against the order of the learned Single Judge.

Shri Nidhesh Gupta, learned senior counsel appearing for the applicant invited our attention to judgment dated 8.4.2013 passed by a co-ordinate Bench in S.L.P.(C) No. 4616 of 2010 Municipal Corporation of Delhi v. Yashwant Singh Negi and argued that the special leave petitions are liable to be dismissed because the petitioner has not challenged the judgment of the High Court whereby the special appeals were dismissed. He also relied upon the judgment in DSR Steel (Private) Limited v. State of Rajasthan and others (2012) 6 SCC 782 in support of this argument.

Dr. Abhishek Manu Singhvi, learned senior counsel appearing for petitioner-Life Insurance Corporation submitted that the defect pointed out by learned senior counsel for the applicant is purely technical and this should not be made a ground to deny substantive relief to the petitioner. He relied upon the judgments in Kunhayammed and others v. State of Kerala and another (2000) 6 SCC 359 and Eastern Coal Fields Limited v. Dugal Kumar (2008) 14 SCC 295 and argued that once the petitions filed for review of the main judgment were dismissed, the same stood automatically merged in the review order and the petitioner's failure to challenge the same is inconsequential.

In our view, in the absence of challenge to the judgment of the Division Bench of the High Court vide which the special appeals filed by the petitioner were dismissed, the special leave petitions filed against the order passed in the review petitions do not merit acceptance, more so, because the learned senior counsel for the petitioner could not show that the order under challenge is vitiated by an error apparent on the face of the record.

With the above observations, I.A.Nos.12-13 of 2013 are allowed and the special leave petitions are dismissed. The interim order passed by this Court stands automatically vacated.

However, it is made clear that this order shall not preclude the SLP petitioner from filing special leave petitions against the judgment of the Division Bench of the High Court by which the special appeals were dismissed. It is also made clear that this order shall not entitle the SLP petitioner to claim condonation of delay as a matter of right and the application, if any, filed for this purpose will be decided on its own merits.

(Parveen Kr.Chawla)
Court Master

(Phoolan Wati Arora)
Court Master