2025 INSC 1416

REPORTABLE

IN THE SUPREME COURT OF INDIA
EXTRA-ORDINARY JURISDICTION

PETITION FOR SPECIAL LEAVE TO APPEAL (CIVIL) NO.15870/2025

KANGRA CENTRAL COOPERATIVE BANK LIMITED …PETITIONER

VERSUS

THE KANGRA CENTRAL COOPERATIVE BANK PENSIONERS WELFARE ASSOCIATION (REGD.) & ORS. …RESPONDENTS

R1: The Kangra Central Cooperative Bank Pensioners Welfare Association (Regd.)
R2: The State of Himachal Pradesh
R3: The Registrar, Cooperative Societies, Himachal Pradesh
R4: The Kangra Central Cooperative Bank Ltd. Staff Pension Trust

J U D G M E N T

AHSANUDDIN AMANULLAH & PRASHANT KUMAR MISHRA, JJ.

Heard learned senior counsel Mr. Kapil Sibal, Mr. Kavin Gulati and Mr. Shadan Farasat, for their respective parties, alongwith learned counsel assisting them.

PRELIMINARY OBJECTION:

2. At the outset, Mr. Kavin Gulati, learned senior counsel for respondent no.1, raised the issue of non-maintainability of the instant Special Leave Petition under Article 136 of the Constitution of India (hereinafter referred to as the 'Constitution'). The parties have, thus, addressed us on the same.

RESPONDENT NO.1'S CONTENTIONS:

3. Mr. Gulati, learned senior counsel, submitted that the present petition is not maintainable for the reason that the original Judgment dated 15.05.2012 in CWP No.1679/2010 [2012:HHC:4682], as passed by the learned Single Judge of the Himachal Pradesh High Court (hereinafter referred to as the 'High Court'), as upheld by the Division Bench of the High Court on 26.02.2024 in LPA No.316/2012 [2014:HHC:11898-DB], was further challenged before this Court by the petitioner in SLP (C) No.16819/2024. But the said challenge was dismissed by Order dated 23.09.2024 in SLP (C) No.16819/2024. It was further submitted that later, a Miscellaneous Application (hereinafter referred to as 'MA') Diary No.51429/2024 was filed before this Court for recall of the order of dismissal, which was also withdrawn by the petitioner on 20.12.2024. However, such withdrawal was with liberty to file a review petition before the High Court. It was submitted that in the said Order (of withdrawal of the MA with the liberty *supra*), no liberty was granted to the petitioner to move this Court again, in case the petitioner did not succeed in/was aggrieved by the order/s to be passed in the review petition. Further, it was submitted that even otherwise, once this Court had upheld, by the Order dated 23.09.2024 *supra*, the original Judgment passed by the learned Single Judge as affirmed by the Division Bench on merits in the same case between the same parties, such Judgment, being *in personam*, could not be opened up for fresh consideration *de novo*, as was being attempted by the petitioner in the present proceeding.

He cited *T K David v Kuruppampady Service Cooperative Bank Limited*, (2020) 9 SCC 92 for the proposition that the present petition was not maintainable and referred to *Punjab State Cooperative Agricultural Development Bank Limited v Registrar, Cooperative Societies*, (2022) 4 SCC 363 on the merits of the case, without prejudice to his objection on maintainability. It was prayed that the petition deserved dismissal.

PETITIONER'S RESPONSE:

4. *Per contra*, Mr. Kapil Sibal, learned senior counsel for the petitioner, submitted that the contentions urged by respondent no.1 are misconceived. It was submitted that nowhere, along the whole chain, any Court, be it the learned Single Judge or the Division Bench of the High Court, or even this Court, had considered the issue(s) raised, both on facts and in law, by the petitioner. Mr. Sibal, learned senior counsel, pointedly urged that, at the very least, the petitioner was, and is, duly entitled to one such serious consideration on merits. He further contended that the position in law is clear that inasmuch as even if a matter is dismissed by this Court without any adjudication on merits, a review would lie before the Court whose judgment/order was under challenge in this Court. For such proposition, he placed reliance on *Manisha Nimesh Mehta v Board of Directors, Represented by Chairman and Managing Director of ICICI Bank*, (2024) 9 SCC 573. He vehemently disputed the applicability of *T K David* (*supra*) to the instant case.

5. Mr. Sibal, learned senior counsel, concluded his arguments by urging that if the judgment impugned is not interfered with, it may result in the closure of the petitioner-Bank itself, and being a Cooperative Bank, ultimately, the customers of the Bank would suffer as there would be no purpose for the petitioner-Bank to grant them any loan for any work in District Kangra, State of Himachal Pradesh. He submitted, hence, that the financial condition and future prospects of the petitioner-Bank as also its customers would be jeopardized and seriously prejudiced. Moreover, it was contended that the financial condition of the petitioner-Bank was not conducive to cushion the payment outflow. He further submitted that the petitioner-Bank has an inherent right to consider/reconsider any scheme/policy especially, relating to pension regarding its employees based on *bona fide* financial constraints. In the present matter, when the outflow/liability to pay far exceeds what is received by the petitioner-Bank, equity also is in its favour as there are no sources of money from which such huge demand can be fulfilled.

NUMBER OF PERSONS INVOLVED AND ESTIMATED FINANCIAL BURDEN:

6. On a quick response from learned senior counsel and learned counsel for respondent no.1, as to the number of persons who would likely be affected/impacted, the answer is that it would be no more than 141 pensioners and 45 spouses of the pensioners who had passed

away. Further submission canvassed was that the financial liability would not exceed more than approximately INR 30-35 crores.

7. On this, Mr. Sibal, learned senior counsel, on instructions, opined that the financial liability could be about INR 250 crores.

8. Be that as it may, we consciously refrain from returning findings on the merits of the matter. We are of the considered opinion that the issue of maintainability, raised by respondent no.1, needs an evaluation at the threshold. It would be a futility to hear the parties on merits before adjudicating on the preliminary objection.

RESPONDENT NO.4'S STAND:

9. As noted in Order dated 22.08.2025, Mr. Farasat, learned senior counsel, had informed us that respondent no.4-Trust would be supporting the petitioner-Bank as ultimately, it would have to pay/bear the liability. On facts, it was stated that respondent no.4-Trust was not in a position to pay respondent no.1/its members more than what they were presently receiving.

ANALYSIS, REASONING AND CONCLUSION:

10. In these particular facts and circumstances, the history of the *lis* and the matter having travelled to this Court in the present proceeding for the third time, we find force in the

preliminary objection. For proper contextual appreciation, it is apposite to set out the relevant extracts of the Orders dated 23.09.2024 and 20.12.2024 referred to *supra*, as also the Order dated 12.08.2022 in Civil Appeal No.5251/2022:

I. 12.08.2022:

> ***'…***
> ***11. We, therefore, allow this appeal and set aside the view taken by the Division Bench. However, since the Division Bench had not dealt with the matter on merits, we restore LPA No.316 of 2012 to the file of the Division Bench and request the High Court to dispose of the same as early as possible and preferably within three months from the receipt of this order.***
> ***…'***

II. 23.09.2024:

> ***'Heard Mr. Baldev Singh, learned counsel for the petitioner and Mr. Kavin Gulati, learned senior counsel for the caveator-respondent.***
> ***We see absolutely no occasion to interfere with the order dated 26.02.2024 of the High Court of Himachal Pradesh at Shimla, in exercise of our jurisdiction under Article 136 of the Constitution of India.***
> ***The present petition is, accordingly, dismissed.***
> ***Pending application(s), if any, shall stand disposed of.***
> ***However, the question of law is kept open.'***

III. 20.12.2024:

> ***'Delay condoned.***
> ***This misc. application has been filed for recalling of the order dated 23.09,2024. After arguing the matter for some time, learned senior counsel appearing for the applicant seeks leave to withdraw this misc. application so as to approach the High Court in Review Petition.***
> ***With liberty as above, the misc. application is disposed of as withdrawn.'***

11. The principle that a review is maintainable even after dismissal *simpliciter* of an SLP by this Court is not in dispute. Reference in this regard to the pronouncements in *Kunhayammed v*

***State of Kerala*, (2000) 6 SCC 359 and *Khoday Distilleries Limited v Sri Mahadeshwara Sahakara Sakkare Karkhane Limited, Kollegal*, (2019) 4 SCC 376, both by Benches of 3-Judges, is sufficient.**

12. In *T K David* (*supra*), the principle was enunciated thus by a 3-Judge Bench:

> ***'17. The rationale for not entertaining a special leave petition challenging the order of the High Court rejecting the review petition when main order in the writ petition is not challenged can be easily comprehended. Against the main judgment SLP having been dismissed earlier the same having become final between the parties cannot be allowed to be affected at the instance of the petitioner. When the main judgment of the High Court cannot be affected in any manner, no relief can be granted by this Court in the special leave petition filed against order rejecting review application to review the main judgment of the High Court. This Court does not entertain a special leave petition in which no relief can be granted. It is due to this reason that this Court in Bussa Overseas & Properties (P) Ltd. [Bussa Overseas & Properties (P) Ltd. v. Union of India, (2016) 4 SCC 696] has held that principle of not entertaining special leave petition against an order rejecting the review petition when main judgment is not under challenge has become a precedential principle. We reiterate the above precedential principle in this case again.'***
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> **(emphasis supplied)**

13. In *Manisha Nimesh Mehta* (*supra*), the Bombay High Court dismissed a bunch of review petitions as non-maintainable, holding that as the special leave petitions against the original judgment(s) therein had been dismissed by this Court. Remitting the said review petitions to the High Court, while setting aside the ruling of the Bombay High Court, a 2-Judge Bench of this Court held as follows:

> ***'8. It seems that as per the settled law, which holds the field as of date, the applicability of doctrine of merger***

> ***is contingent upon leave being granted by the court in the special leave petition. To wit, the dismissal of a special leave petition—regardless of whether it is through a speaking or a non-speaking order—does not attract the doctrine of merger; thereby making a review petition before the High Court maintainable as ruled in the above-cited decisions. Conversely, where this Court grants leave, and thereafter dismisses the civil appeal, be that by way of a speaking or non-speaking order, the order under appeal merges with the order passed by this Court. In such cases, the doctrine of merger is applicable squarely.***
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> **xxx**
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> ***10. Reverting to the case at hand, the special leave petition was dismissed [Perfect Infraengineers Ltd. v. ICICI Bank Ltd., 2024 SCC OnLine SC 1843] as this Court was not "inclined to interfere with the impugned judgment [Manisha Nimesh Mehta v. ICICI Bank, 2024 SCC OnLine Bom 2407]". Indisputably, no leave was granted and consequently, the merger principle was not invoked. That being so, the High Court may not be legally correct in dismissing the review petition at the threshold for want of maintainability.'***
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> **(emphasis supplied)**

14. Upon a perusal of the judgment impugned in *Manisha Nimesh Mehta* (*supra*), we find that the Bombay High Court had found it '*not necessary to comment on the arguments advanced by Mr. Nedumpara, which are about the merits of the Review Petitions.*' Thus, as the Bombay High Court dismissed the review petitions on the ground of maintainability alone, statedly, there entailed no consideration on merits whatsoever.

15. In *T K David* (*supra*), *Bussa Overseas and Properties Private Limited v Union of India*, (2016) 4 SCC 696 was noted with approval. In *Bussa Overseas and Properties Private Limited* (*supra*), a 2-Judge Bench surveyed the precedential landscape and ultimately held:

> ***'29. Needless to state that when the prayer for review is dismissed, there can be no merger. If the order passed in***

> ***review recalls the main order and a different order is passed, definitely the main order does not exist. In that event, there is no need to challenge the main order, for it is the order in review that affects the aggrieved party.***
>
> ***30. The decisions pertaining to maintainability of special leave petition or for that matter appeal have to be seemly understood. Though in the decision in Shanker Motiram Nale [Shanker Motiram Nale v. Shiolalsing Gannusing Rajput, (1994) 2 SCC 753] the two-Judge Bench referred to Order 47 Rule 7 of the Code of Civil Procedure that bars an appeal against the order of the court rejecting the review, it is not to be understood that the Court has curtailed the plenary jurisdiction under Article 136 of the Constitution by taking recourse to the provisions in the Code of Civil Procedure. It has to be understood that the Court has evolved and formulated a principle that if the basic judgment is not assailed and the challenge is only to the order passed in review, this Court is obliged not to entertain such special leave petition. The said principle has gained the authoritative status and has been treated as a precedential principle for more than two decades and we are disposed to think that there is hardly any necessity not to be guided by the said precedent.'***
>
> **(emphasis supplied)**

16. Of course, in *S Narahari v S R Kumar*, (2023) 7 SCC 740, while referring the question of maintainability of an SLP against an Order against which an earlier SLP has been dismissed without liberty to a Larger Bench, it was opined as under:

> ***'36. In simpler terms, this would essentially mean that even in cases where the special leave petition was dismissed as withdrawn, where no reason was assigned by the Court while dismissing the matter and where leave was not granted in the said special leave petition, the said dismissal would not be considered as laying down law within the ambit of Article 141 of the Constitution of India.***
>
> ***37. If a dismissal of special leave petition by way of a non-speaking order is not considered law under Article 141 of the Constitution of India, the same also cannot be considered as res judicata, and therefore, in every such dismissal, even in cases where the dismissal is by way of a withdrawal, the remedy of filing a fresh special leave petition would still persist. Further, if on the said reasoning, a remedy to file a review in the High Court is***

> ***allowed, then the same reasoning cannot arbitrarily exclude the filing of a subsequent special leave petition.***
> ***38. We are painfully aware of the fact that such an interpretation, if expanded beyond the specific scope of filing a review in the High Court is allowed, it would open the floodgates of litigation, and would essentially mean that every dismissal of special leave petition must be accompanied with reasons declaring the same.'***

17. Notably, in *S Narahari* (*supra*), the initial SLP was withdrawn and not dismissed. Next in sequence come the Orders dated 29.07.2024 and 13.08.2024 (where one of us, Prashant Kumar Mishra, J., was part of the *coram*) in SLP(C) Nos.17501-17502/2024 [*N. F Railway Vending and Catering Contractors Association Lumding Division v The Union of India & Ors.*], which stand duly considered in *Satheesh V K v Federal Bank Limited*, (2025) 259 Comp Cas 354. In SLP (C) Diary No.36933/2025 [*Vasantalata Kom Vimalanand Mirjankar Rep. by GPA Holder v Deepa Mavinkurve & Ors.*], the initial SLP had been dismissed without liberty, after which the petitioner moved the Karnataka High Court in review and having lost, assailed the original judgment as also the judgment in review, which this Court disapproved of in terms below:

> ***'7. This Court is of the opinion that reliance placed by the learned senior counsel for the Petitioner in S. Narahari (supra) is misplaced as in the said case, initial SLP had been dismissed as withdrawn and not dismissed. The judgment in Kunhayammed (supra) and Khoday Distilleries (supra) also nowhere state that the Petitioner is entitled to a 'second bite at the cherry' by filing a subsequent SLP challenging the order of the High Court against which an SLP has already been dismissed. The aforesaid judgments only state that a review petition is maintainable before the High Court after dismissal of the SLP by a non-speaking order.***
> ***8. This Court is further of the opinion that under Order XLVII Rule 7 CPC, no appeal lies against the order passed by the High Court dismissing the review petition. To circumvent this provision of law, another SLP has been***

filed challenging the main judgment and order dated 30th January, 2014 against which SLP has already been dismissed. …

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10. … This Court is of the opinion that the present SLP against main order dated 30th January, 2014 is an abuse of process of Court as it amounts to re-litigation and to entertain the present SLP would amount to challenging one of the foundation pillars of Rule of law namely finality in litigation. Accordingly, the present SLP is dismissed.'

18. The clincher can be found in *Satheesh V K* (*supra*), where a 2-Judge Bench has recently held:

'4. Having been permitted to withdraw the special leave petition, the appellant next approached the High Court with a petition [R.P. No. 1294 of 2024] seeking review of the order dated October 1, 2024. Such petition came to be dismissed vide order dated December 5, 2024.

5. Consequent upon such dismissal, these two civil appeals were presented by the appellant before this court on December 12, 2024. The appeal [Civil Appeal No. 11752 of 2025] registered prior in point of time is directed against the order dated October 1, 2024 of disposal of the appellant's writ petition, whereas the one [Civil Appeal No. 11753 of 2025.] subsequently registered is directed against the dismissal of the review petition.

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14. Since the question of examining the merits of the appellant's claim would arise if the objection to the maintainability were overcome, we proceed to examine the maintainability aspect first.

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16. The question we are tasked to decide, though of frequent occurrence now-a-days, is not res integra. It is, whether a special leave petition (second in the series) would be maintainable against a judgment and order which was earlier challenged before this court but such challenge turned out to be abortive because the special leave petition before this court is either (i) withdrawn unconditionally, or (ii) dismissed on merits by a brief order not containing reasons, or (iii) withdrawn with liberty to apply for review but without the liberty to approach this court once again, should the review too fail.

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19. Having noticed S. Narahari v. S.R. Kumar [(2023) 7 SCC 740; 2023 SCC OnLine SC 772], a stark dissimilarity in facts is discernible. There, the unsuccessful petitioner at the time of dismissal of the special leave petition as

withdrawn had prayed for and was granted leave to apply for a review. Upon the review being dismissed, the parent order was challenged once again. Before us, there is something very adverse to the appellant. He having sensed that the co-ordinate Bench was not inclined to entertain the special leave petition, did not invite an order of dismissal thereof on merits but went away content with permission to withdraw. Neither permission was sought to apply for review nor was any window kept open by this court to permit the appellant to approach it once again mounting a challenge to the same order. This is a plain and simple case where the law laid down in the previous century by a co-ordinate Bench in its decision in Upadhyay and Co. v. State of U.P. [(1999) 1 SCC 81; 1998 SCC OnLine SC 997] would squarely apply.

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21. In Upadhyay and Co. v. State of U. P., it was held thus [See page 84 of (1999) 1 SCC]:

> *"9. In the meanwhile, the petitioner challenged the order of the Allahabad High Court dated May 3, 1996 by filing S.L.P. (C) No. 12673 of 1996 in this court. But for reasons better known to the petitioner he withdrew the special leave petition on July 9, 1996. Thereafter, he filed an application before the High Court for clarification of the order dated May 3, 1996, but the Division Bench did not find anything to be clarified about that order and hence dismissed the petition on October 10, 1997.*
>
> *10. The present special leave petitions are filed against the two orders of the High Court, one dated May 3, 1996 and the other dated September 10, 1997.*
>
> *11. We made a recapitulation of the events as above for the purpose of showing that the petitioner has absolutely no case in the present special leave petitions. He cannot, at any rate, now challenge the order of the High Court dated May 3, 1996 over again having withdrawn the special leave petition which he filed in challenge of the same order. It is not a permissible practice to challenge the same order over again after withdrawing the special leave petition without obtaining permission of the court for withdrawing it with liberty to move for special leave again subsequently.*
>
> *12. The above principle has been incorporated as a rule in the realm of suits. Order 23, rule 1 of the Code of Civil Procedure deals with withdrawal of suit or abandonment of part of the claim. Sub-rule (3) says that the court may in certain contingencies grant permission to withdraw from a suit with liberty to institute a fresh suit in*

respect of the subject-matter of such suit. Sub-rule (4) reads thus:

> *'1. (4) Where the plaintiff—*
> *(a) abandons any suit or part of a claim under sub-rule (1), or*
> *(b) withdraws from a suit or part of a claim without the permission referred to in sub-rule (3),*
> *he shall be liable for such costs as the court may award and shall be precluded from instituting any fresh suit in respect of such subject-matter or such part of the claim.'*

13. The aforesaid ban for filing a fresh suit is based on public policy. This court has made the said rule of public policy applicable to jurisdiction under article 226 of the Constitution (Sarguja Transport Service v. State Transport Appellate Tribunal [(1987) 1 SCC 5; 1987 SCC (Cri) 19; 1986 SCC OnLine SC 233]). The reasoning for adopting it in writ jurisdiction is that very often it happens, when the petitioner or his counsel finds that the court is not likely to pass an order admitting the writ petition after it is heard for some time, that a request is made by the petitioner or his counsel to permit him to withdraw it without seeking permission to institute a fresh writ petition. A court which is unwilling to admit the petition would not ordinarily grant liberty to file a fresh petition while it may just agree to permit withdrawal of the petition. When once a writ petition filed in a High Court is withdrawn by the party concerned, he is precluded from filing an appeal against the order passed in the writ petition because he cannot be considered as a party aggrieved by the order passed by the High Court. If so, he cannot file a fresh petition for the same cause once again. The following observations of E.S. Venkataramiah, J. (as the learned Chief Justice then was) are to be quoted here:

> *'[W]e are of the view that the principle underlying rule 1 of Order 23 of the Code should be extended in the interests of administration of justice to cases of withdrawal of writ petition also, not on the ground of res judicata but on the ground of public policy as explained above. It would also discourage the litigant from indulging in bench-hunting tactics. In any event there is no justifiable reason in such a case to*

permit a petitioner to invoke the extraordinary jurisdiction of the High Court under article 226 of the Constitution once again. While the withdrawal of a writ petition filed in the High Court without permission to file a fresh writ petition may not bar other remedies like a suit or a petition under article 32 of the Constitution of India since such withdrawal does not amount to res judicata, the remedy under article 226 of the Constitution of India should be deemed to have been abandoned by the petitioner in respect of the cause of action relied on in the writ petition when he withdraws it without such permission.'…

15. We have no doubt that the above rule of public policy, for the very same reasoning, should apply to special leave petitions filed under article 136 of the Constitution also. Even otherwise, the order passed by the Division Bench of the High Court on May 3, 1998 does not warrant interference on merits as the learned Judges of the High Court have taken into account all the relevant facts and come to the correct conclusion."

(emphasis ours)

22.Upadhyay and Co. v. State of U.P. [(1999) 1 SCC 81; 1998 SCC OnLine SC 997], which precedes Kunhayammed v. State of Kerala [(2000) 245 ITR 360 (SC); (2000) 119 STC 505 (SC); (2000) 6 SCC 359; 2000 SCC OnLine SC 1008] in point of time, is still the law holding the field declaring in no certain terms that the principle flowing from Order XXIII Rule 1 of the Code of Civil Procedure is also applicable to special leave petitions presented before this court. Reading Upadhyay and Co. v. State of U.P. together with Sarguja Transport Service v. State Transport Appellate Tribunal [(1987) 1 SCC 5; 1987 SCC (Cri) 19; 1986 SCC OnLine SC 233.] , which had the occasion to deal with a subsequently filed writ petition under article 226 of the Constitution of India after unconditional withdrawal of the first writ petition under the same article, the position in law seems to be this-a second special leave petition would not be maintainable at the instance of a party, who elects not to proceed with the challenge laid by him in an earlier special leave petition and withdraws such petition without obtaining leave to file a fresh special leave petition; if such party applies for a review before the court from whose order the special leave petition was initially carried and the review fails, then he can

neither challenge the order rejecting the review nor the order of which review was sought.

23. That no appeal lies from an order rejecting a petition for review is clear from the plain language of Order XLVII, Rule 7(1) of the Code of Civil Procedure. We need not burden this judgment by referring to any authority on this point.

24. However, the principle underlying Order XLVII, Rule 7(1) of the Code of Civil Procedure may be understood. Whenever a party aggrieved by a decree or order seeks a review thereof based on parameters indicated in section 114 read with Order XLVII of the Code of Civil Procedure and the application ultimately fails, the decree or order under review does not suffer any change. It remains intact. In such an eventuality, there is no merger of the decree or order under review in the order of rejection of the review because such rejection does not bring about any alteration or modification of the decree or order; rather, it results in an affirmance of the decree or order. Since there is no question of any merger, the party aggrieved by the rejection of the review petition has to challenge the decree or order, as the case may be, and not the order of rejection of the review petition. On the contrary, if the petition for review is allowed and the suit or proceedings is placed for rehearing, rule 7(1) permits the party aggrieved to immediately object to the order allowing the review or in an appeal from the decree or order finally passed or made in the suit, i.e., after rehearing of the matter in dispute.

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33. Since the facts in Kunhayammed v. State of Kerala [(2000) 245 ITR 360 (SC); (2000) 119 STC 505 (SC); (2000) 6 SCC 359; 2000 SCC OnLine SC 1008] and Khoday Distilleries Ltd. v. Sri Mahadeshwara Sahakara Sakkare Karkhane Ltd. [(2019) 4 SCC 376; 2019 SCC OnLine SC 308] were different, there is evidently no consideration of the decision in Upadhyay and Co. v. State of U.P. [(1999) 1 SCC 81; 1998 SCC OnLine SC 997] which clinches the issue and assists us in drawing the conclusion we do hereunder.

34. In so far as the order dated August 13, 2024 passed in N.F. Railway Vending and Catering Contractors Association Lumding Division v. Union of India [Special Leave Petition (C) Nos. 17501 and 17502 of 2024] is concerned, the order records developments having taken place subsequent to the order dated July 29, 2024 which, in the opinion of the Bench, required a further consideration. The order dated August 13, 2024, for such reason, recalled the earlier order dated July 29, 2024 and issued notice on the special leave petition as well as on the application for stay together with interim protection. The order dated August 13, 2024 recalled the order dated July 29, 2024 whereby hearing was adjourned

sine die awaiting the reference made in S. Narahari v. S.R. Kumar [(2023) 7 SCC 740; 2023 SCC OnLine SC 772]. No assistance can, thus, be drawn by the appellant from such order.

35. We have no doubt that entertaining a special leave petition in a case of the present nature would be contrary to public policy and can even tantamount to sitting in appeal over the previous order of this court which has attained finality. The maxim interest reipublicae ut sit finis litium (it is for the public good that there be an end to litigation) would apply in all fours when it is found that proceedings challenging an order were not carried forward by withdrawing the special leave petition and the litigant has returned to the same court after some time mounting a challenge to the self-same order which was earlier under challenge and such challenge had not been pursued. This is a course of action which cannot be justified either in principle or precept.

36. For the foregoing reasons, the preliminary objections to the maintainability of the appeals raised by the respondent succeed.'

(emphasis supplied)

19. The relevant timeline is encapsulated as under:

(a) 15.05.2012: Single Judge of the High Court decided CWP No.1679/2010, and issued directions, parts whereof aggrieved both the petitioner-Bank as also respondent no.1.

(b) 03.09.2014: Division Bench of the High Court allowed Letters Patent Appeals [2014:HHC:7460-DB] preferred thereagainst by the petitioner-Bank (LPA No.138/2014) as also respondent no.1 (LPA No.316/2012), and dismissed CWP No.1679/2010 holding the same to be not maintainable.

(c) 12.08.2022: This Court restored (*only*) LPA No.316/2012 to the file of the Division Bench for consideration in terms of the Order extracted *supra*.

(d) 26.02.2024: The High Court's Division Bench allowed LPA No.316/2012, setting aside the portion of the Order dated 15.05.2012 which was impugned by the respondent no.1.

(e) 23.09.2024: This Court dismissed the challenge to the Order dated 26.02.2024.

(f) 20.12.2024: This Court dismissed an MA seeking recall of the Order dated 23.09.2024, but granted liberty, as sought by the applicant-petitioner, to approach the High Court in a Review Petition.

(g) 11.04.2025: The Division Bench of the High Court dismissed Review Petition No.18/2025 [2025:HHC:10419], impugned before us. The relevant extract therefrom reads as under:

> ***'…***
> ***10. Thus, for all practical purposes, the SLP already stands dismissed and order, as such, even while clarifying or giving liberty to approach this Court, never, as such, recalls the earlier order in its entirety and the said order still stands. If that is so, it is not within the domain of this Court, as such, now to review the order dated 26.02.2024, once the order has been upheld by the Apex Court itself on 23.09.2024.***
> ***11. The question of law, which has been kept open on 23.09.2024, is by the Apex Court regarding the issue, in such circumstances, the order, which is sought to be reviewed, does not suffer from any infirmity or illegality which would bring it within the ambit of the purview of the review jurisdiction. Thus, we have no option but to dismiss the review petition.***
> ***…'***

20. Undoubtedly, only the Judgment rendered in review is impugned herein. That said, it is evident that the afore-quoted Paragraph 10 was unnecessary, for once liberty was granted to the petitioner to invoke review jurisdiction by this Court on 20.12.2024, the Division Bench need not have felt inhibited by the dismissal of the

SLP on 23.09.2024, despite it expressly keeping the question of law open. At first blush, this could have prompted us to go down the route adopted by this Court in *Manisha Nimesh Mehta* (*supra*). However, the difference here is that it is seen that the Division Bench of the High Court has recorded that it did not find any infirmity or illegality in the matter, warranting review of the concerned Judgment dated 26.02.2024. In the extant facts, on a holistic conspectus, the said reasoning is deemed enough to sustain the Impugned Judgment, duly keeping in mind that the same was not rendered in substantive writ or appellate proceedings, but only in review jurisdiction, which is limited and circumscribed. We are satisfied that the Impugned Judgment cannot be interdicted. Illustratively speaking, from another lens:

1. If the petitioner-Bank had succeeded in the review, it would not be aggrieved and therefore, there would be no question of it again resorting to Article 136 of the Constitution;

2. If the petitioner-Bank had succeeded in the review, the aggrieved party would be respondent no.1, which could and would, if it approached this Court under Article 136 of the Constitution, only assail the order/judgment passed in review, inasmuch as the original judgment, which stood in its favour, would cease to exist due to the order/judgment passed in review.

21. It is also to be factored in that even we are not sitting in appeal of or review over the Order dated 23.09.2024. Another chance

cannot be accorded to the petitioner to agitate its case before this Court. Indubitably, the initial SLP was dismissed on 23.09.2024 and MA seeking recall of the dismissal was withdrawn with liberty to prefer a review in the High Court on 20.12.2024. The withdrawal of the MA on 20.12.2024 was without further liberty to approach this Court once again. The review before the High Court at the instance of the Petitioner has failed. Resultantly, the original Judgment dated 26.02.2024 attains finality, albeit keeping open the question(s) of law but closing the same *inter-partes*, as directed *vide* Order dated 23.09.2024.

22. Moreover, guided by *Bussa Overseas and Properties Private Limited* (*supra*), *T K David* (*supra*), *Upadhyay and Co. v State of Uttar Pradesh*, (1999) 1 SCC 81 and *Satheesh V K* (*supra*), and for reasons aforesaid, we accept the preliminary objection, adjudge the special leave petition as not maintainable and dismiss the same *in limine*.

23. Therefore, there is no doubt that a party does not require any liberty to move in review before the High Court after dismissal *simpliciter* of an SLP by a non-speaking Order of this Court. However, if the High Court refuses to exercise review jurisdiction, to our mind, it would not be just and proper to permit the same party to approach this Court again, in the absence of specific liberty having been granted by this Court. We have borne in mind Order XLVII Rule 7(1) of the Code of Civil Procedure, 1908 and the decisions of this Court, quoted hereinbefore.

24. On the aspect of the pending Reference adverted to above, we need only reproduce the relevant passages from *Union Territory of Ladakh v Jammu and Kashmir National Conference*, 2023 SCC OnLine SC 1140, where the Court (speaking through one of us, Ahsanuddin Amanullah, J.), held as under[1]:

> ***'32. … That apart, it is settled that mere reference to a larger Bench does not unsettle declared law. In Harbhajan Singh v. State of Punjab, (2009) 13 SCC 608, a 2-Judge Bench said:***
>
> > ***"15. Even if what is contended by the learned counsel is correct, it is not for us to go into the said question at this stage; herein cross-examination of the witnesses had taken place. The Court had taken into consideration the materials available to it for the purpose of arriving at a satisfaction that a case for exercise of jurisdiction under Section 319 of the Code was made out. Only because the correctness of a portion of the judgment in Mohd. Shafi [(2007) 14 SCC 544 : (2009) 1 SCC (Cri) 889 : (2007) 4 SCR 1023 : (2007) 5 Scale 611] has been doubted by another Bench, the same would not mean that we should wait for the decision of the larger Bench, particularly when the same instead of assisting the appellants runs counter to their contention."***
> >
> > ***(emphasis supplied)***
>
> ***33. In Ashok Sadarangani v. Union of India, (2012) 11 SCC 321, another 2-Judge Bench indicated:***
>
> > ***"29. As was indicated in Harbhajan Singh case [Harbhajan Singh v. State of Punjab, (2009) 13 SCC 608 : (2010) 1 SCC (Cri) 1135], the pendency of a reference to a larger Bench, does not mean that all other proceedings involving the same issue would remain stayed till a decision was rendered in the reference. The reference made in Gian Singh case [(2010) 15 SCC 118] need not, therefore, detain us. Till such time as the decisions cited at the Bar are not modified or altered in any way, they continue to hold the field."***
> >
> > ***(emphasis supplied)***
>
> ***34. On the other hand, when it was thought proper that other Benches of this Court, the High Courts and the***

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[1] We have followed *Union Territory of Ladakh* (*supra*) in our recent judgment in *Sankar Padam Thapa v Vijaykumar Dineshchandra Agarwal*, 2025 SCC OnLine SC 2194.

Courts/Tribunals below stay their hands, the same was indicated in as many words, as was the case in State of Haryana v. G D Goenka Tourism Corporation Limited, (2018) 3 SCC 585:

> *"9. Taking all this into consideration, we are of the opinion that it would be appropriate if in the interim and pending a final decision on making a reference (if at all) to a larger Bench, the High Courts be requested not to deal with any cases relating to the interpretation of or concerning Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. The Secretary General will urgently communicate this order to the Registrar General of every High Court so that our request is complied with.*
>
> *10. Insofar as the cases pending in this Court are concerned, we request the Benches concerned dealing with similar matters to defer the hearing until a decision is rendered one way or the other on the issue whether the matter should be referred to a larger Bench or not. Apart from anything else, deferring the consideration would avoid inconvenience to the litigating parties, whether it is the State or individuals."*

(emphasis supplied)

35. We are seeing before us judgments and orders by High Courts not deciding cases on the ground that the leading judgment of this Court on this subject is either referred to a larger Bench or a review petition relating thereto is pending. We have also come across examples of High Courts refusing deference to judgments of this Court on the score that a later Coordinate Bench has doubted its correctness. In this regard, we lay down the position in law. We make it absolutely clear that the High Courts will proceed to decide matters on the basis of the law as it stands. It is not open, unless specifically directed by this Court, to await an outcome of a reference or a review petition, as the case may be. It is also not open to a High Court to refuse to follow a judgment by stating that it has been doubted by a later Coordinate Bench. In any case, when faced with conflicting judgments by Benches of equal strength of this Court, it is the earlier one which is to be followed by the High Courts, as held by a 5-Judge Bench in National Insurance Company Limited v. Pranay Sethi, (2017) 16 SCC 680. The High Courts, of course, will do so with careful regard to the facts and circumstances of the case before it.'

(emphasis supplied)

QUALIFICATION ON FACTS:

25. At this stage and at the request of Mr. Sibal, learned senior counsel, in the peculiar facts of the present case, we make it clear that the liability/claims against/on the petitioner-Bank would be limited to only 141 persons and 45 spouses of the original writ petitioners, totalling 186. The instant direction is made in the special facts herein, exercising powers under Article 142 of the Constitution. We are persuaded to so direct to prevent further litigation and this paragraph shall not constitute binding precedent. Our statement and interpretation of the law hereinabove is not affected.

PROCEDURAL DIRECTION(S):

26. IA No.271985/2025 is allowed; exemption from filing OT is granted. IAs No.271983/2025 & 230737/2025 are formally allowed.

.....,J.
[AHSANUDDIN AMANULLAH]

.....,J.
[PRASHANT KUMAR MISHRA]

03RD DECEMBER, 2025
NEW DELHI