

Faial Arab, J.- In all these connected review petitions, the petitioners seek review of the judgment dated 04.05.2018, authored by Ejaz Afzal Khan, J, as he then was, myself concurring with it and my learned brother Maqbool Baqar, J. dissenting. Aggrieved by such judgment the main party to the proceedings, the Bahria Town (Pvt.) Limited exercised its option by filing Review Petition which was dismissed on merits by a five member larger bench of this Court on 04.12.2018, and thus the judgment dated 04.05.2018 attained finality.

2. The present review petitioners were neither party in the main case nor stake any claim in the property which was subject matter of the main case. They also do not claim any right on the land which is in occupation of Bahria Town (Pvt.) Limited. They are seeking review of the judgment dated 04.05.2018 only for the reason that the question of law decided in the said judgment by this Court be declared not to be binding on the revenue authorities in case any action on the basis of the law laid down in the said judgment is initiated with regard to their properties.

3. Today, the counsel for the present review petitioners were heard on the maintainability of their review petitions. After the hearing, the order which my learned brother Maqbool Baqar, J. has proposed to pass, states that what has been decided in the judgment dated 04.05.2018, passed in the main case shall not come in the way of present review petitioners in case any action in relation to their properties on the basis of such decision is contemplated or initiated by the revenue authorities. The proposed order of my learned brother, in my humble view, would then mean

that the law laid down by this Court in the said judgment is not a good law and therefore, does not carry its binding effect. I respectfully do not agree with the same for the following reasons.

4. When this Court decides a question of law or its decision is based upon a principle of law, the same is binding on all courts in Pakistan by virtue of Article 189 of the Constitution. If the law laid down in judgment dated 04.05.2018 passed in this case is made ineffective on the basis what has been pleaded in the review petitions, it would amount to nullifying the mandate of Article 189 of the Constitution. This in turn would also amount to replacing the majority judgment with the minority judgment.

5. The whole intent of Article 189 of the Constitution is to curb future litigation on any question of law or a principle of law that has been laid down by this Court and all present and future controversies are to be decided accordingly as long as it is a good law. Hence, until the question of law decided by this Court in the judgment dated 04.05.2018 is revisited by a larger bench of this Court in some other case, all authorities would be bound to abide by the same. Hence, the entire basis for seeking review of the judgment dated 04.05.2018 is extraneous to the jurisprudence of this country and therefore, all these connected review petitions are not maintainable and are summarily dismissed.

JUDGE

26th of October, 2020

ORDER OF THE COURT

By majority of two to one (Maqbool Baqar, J
dissenting), all these review petitions are dismissed.

JUDGE

JUDGE

JUDGE

Islamabad, the
26th of October, 2020
Not Approved For Reporting