

GAHC010089232023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Review.Pet./63/2023

MR. HARBINDER SINGH KALSI AND ANR
S/O LATE KEWAL SINGH KALSI,
RESIDENT OF 18 EAST LANE, SUNDARPUR, DISPUR, GUWAHATI 781005,
ASSAM

2: MR. R.S SADIAL
D/O MAHIBUR RAHMAN SADIAL
RESIDENT OF OLD LAKHIPUR ROAD
MADHURBAND
SILCHAR
788001
ASSA

VERSUS

THE STATE OF ASSAM AND 25 ORS.
REP. BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM, DISPUR,
GUWAHATI -781006.

2:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
HOME DEPARTMENT
DISPUR
GUWAHATI- 781006.

3:THE COMMISSIONER OF POLICE
KAMRUP METROPOLITAN DISTRICT
PANBAZAR
GUWAHATI - 781001.

4:THE OFFICER-IN-CHARGE
DISPUR POLICE STATION
DISPUR
GUWAHATI - 781006.

5:THE OFFICER-IN-CHARGE
HATIGAON POLICE STATION
HATIGAON
GUWAHATI- 781038.

6:SHRI BIREN BORA
SUB- INSPECTOR OF POLICE
CHANDMARI POLICE STATION
CHANDMARI GUWAHATI-781003.

7:JAVED ALI @ SAURAV NATH
9707430687 S/O MD. MUKHTAR ALI R/O HOUSE NO. 23
RAJPATH ROAD
OPPOSITE NAAM GHAR
DISPUR
TO HATIGAON ROAD
GUWAHATI - 781038
P.S. HATIGAON THROUGH THE OFFICER-IN-CHARGE
HATIGAON POLICE STATION

8:SMTI. NILPAMA NIJARA BORA
9707430687 W/O JAVED ALI @ SAURAV NATH R/O HOUSE NO. 23
RAJPATH ROAD
OPPOSITE
NAAM GHAR
DISPUR TO HATIGAON ROAD
GUWAHATI -781038
P.S. HATIGAON THROUGH THE OFFICER-IN-CHARGE
HATIGAON POLICE STATION.

9:MD. MUKHTAR ALI
F/O JAVED ALI @ SAURAV NATH 9707430687 R/O HOUSE NO. 23
RAJPATH ROAD
OPPOSITE NAAM GHAR
DISUR TO HATIGAON ROAD
GUWAHATI - 781038
P.S. HATIGAON THROUGH THE OFFICER-IN-CHARGE
HATIGAON POLICE STATION

10:SHRI RAM AVTAR AGARWALLA BURAKIA
9435071111 S/O LT. PRAKASH CHANDRA AGARWALLA R/O HOUSE NO. 19
ARUNDODAYA PATH
PRAKASH KUNJ
NARAYAN NAGAR
KUMARPARA
P.S. BHARALUMUKH
GUWAHATI - 781009.

11:SHRI SANJAY KUMAR MOJKA
R/O HOUSE NO. 2
BYE LANE NO. 2
NEAR BANK OF INDIA
A.K. AZAD ROAD
REHABARI
GUWAHATI - 781008.

12:SHRI GOVIND SHARMA
FATHER OF SHRI RUPAM SHARMA C/O C.K. SARMA BUILDER HOUSE NO.
40
JANPATH ROAD
OPPOSITE NAMGHAR
GUWAHATI- 781006
P.S. HATIGAON

13:SMTI. POONAM YADAV

ADVOCATE
W/O SHRI RAM AVATAR AGARWALLA
BURAKIA R/O 19
ARUNDODAYA PATH
PRAKASH KUNJ
NARAYAN NAGAR
KUMARPARA
P.S. BHARALUMUKH GUWAHATI - 781009.

14:respondent DELETED
Court Order Dtd. 17/11/17 passed in I. A. C 3733/17

15:SHRI PHON SYIH
R/O VILL- THANGSAKAR
P.O. LUMSHONG
P.S. KHLIERIANT JAINTIA HILLS
MEGHALAYA
PIN - 793200.

16:SHRI MUKESH AGARWALLA
C/O SHRI RAM AVATAR AGARWALLA
BURAKIA R/O 19
ARUNDODAYA PATH
PRAKASH KUNJ
NARAYAN NAGAR
KUMARPARA
P.S. BHARALUMUKH GUWAHATI - 781009

17:respondent DELETED
Court Order Dtd. 17/11/17 passed in WP C 5139/2016

18:SHRI N.A.K. SYIEM
MCS

PERSONNEL and A.R. A DEPARTMENT
MEGHALAYA
SHILLONG-1.

19:SHRI SANTOSH SINGH
MAN SINGH DRIVER C/O SHYAM BIHARI SINGH TAXI OWNER/DRIVER
A.S.T.C. TAXI PARKING STAND
PALTANBAZAR
GUWAHATI - 781008 THROUGH THE OFFICER-IN-CHARGE
PALTAN BAZAR POLICE STATION

20:SHRI ROCKYBUL HUSSAIN
MLA
MLA HOSTEL
DISPUR
GUWAHATI - 781006.

21:SHRI UMESH MANDAL
DRIVER 8135085694 C/O ANUP MISHRA
TAXI OWNER A.S.T.C. TAXI PARKING STAND
PALTAN BAZAR
GUWAHATI- 781008
THROUGH THE OFFICER-IN-CHARGE
PALTAN BAZAR POLICE STATION

22:THE BRANCH MANAGER

STATE BANK OF INDIA
DISPUR BRANCH
DISPUR
GUWAHATI- 781006.

23:THE POST MASTER GENERAL
MEGHDOOT BHAWAN
PANBAZAR
GUWAHATI -781001.

24:DOWN TOWN HOSPITAL
REP. BY ITS SUPERINTENDENT
DISPUR
GUWAHATI- 781006.

25:GUWAHATI MEDICAL COLLEGE AND HOSPITAL

REP. BY ITS SUPERINTENDENT
BHANGAGARH
GUWAHATI - 781032.

26:SHRI PABAN RAI MECHANIC
9085293805 C/O TRIBUBHAN SINGH TAXI OWNER A.S.T.C. TAXI PARKING
STAND
PALTAN BAZAR
GUWAHATI - 781008 THROUGH THE OFFICER-IN-CHARGE
PALTAN BAZAR POLICE STATIO

Advocate for the Petitioner : MR. I SINGH

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI**

ORDER

30-05-2023

Heard Shri N. Das, learned counsel for the applicant, who by means of this application has prayed for review of the order dated 23.03.2023 passed in WP(C) No. 5139/2016.

2. By the said order, while the writ petition has been dismissed, the matter was referred to the Bar Council for appropriate steps against the counsel on record involved and cost was also imposed. This review has been filed by one of the counsel, who was representing the so-called petitioner.

3. Before passing of the aforesaid order dated 23.03.2023 this Court had heard the parties at length and took into account the various reports placed on record including the reports of the investigation agency that no person in the name of the writ petitioner was existing. A number of opportunities was given to the present applicant, who was the counsel, to have the petitioner appear in person before this Court which was initially readily agreed to be done. However, in the subsequent dates, the stand of

the counsel had changed by submitting that the writ petitioner could not be contacted. This Court had recorded in details regarding the steps taken by the Counsel on behalf of the so-called writ petitioner in filing applications under the Right to Information Act and the writ proceedings had also continued for about 6 years. Under those circumstances and taking into account the entire matter, the order was passed.

4. Shri Das, the learned counsel has submitted that after passing of the order, the applicant could come to know about a caveat which was lodged in the Trial Court against the writ petitioner and from that he has submitted that inference can be drawn that the writ petitioner was existing.

5. The aforesaid submission is not relevant as the same relates to a caveat in the Trial Court from which only an inference has been sought to be drawn. In any case, the role of a Review Court is a limited one wherein powers of review can be exercised only under extra-ordinary circumstances which do not appear to be existing in the instant case.

6. The learned counsel Shri Das has placed reliance upon the case of **S. Madhusudhan Reddy Vs V. Narayana Reddy & ors.** reported in **2022 SCC Online 1034.**

7. The Hon'ble Supreme Court in the said case had endorsed the earlier view of the Hon'ble Supreme Court in the case of **Kamlesh Verma Vs. Mayawati & Ors.** reported in **(2013) 8 SCC 320**; wherein the following principles have been laid down:-

“20. Thus, in view of the above, the following grounds of review are maintainable as stipulated by the statute:

20.1. When the review will be maintainable:

(i) Discovery of new and important matter or evidence which, after the exercise of due diligence, was not within knowledge of the petitioner or could not be

produced by him;

(ii) Mistake or error apparent on the face of the record;

(iii) Any other sufficient reason.

The words "any other sufficient reason" have been interpreted in Chhajju Ram v. Neki and approved by this Court in Moran Mar Basselios Catholicos v. Most Rev. Mar Poulouse Athanasius to mean "a reason sufficient on grounds at least analogous to those specified in the rule". The same principles have been reiterated in Union of India v. Sandur Manganese & Iron Ores Ltd.

20.2. When the review will not be maintainable:

(i) A repetition of old and overruled argument is not enough to reopen concluded adjudications.

(ii) Minor mistakes of inconsequential import.

(iii) Review proceedings cannot be equated with the original hearing of the case.

(iv) Review is not maintainable unless the material error, manifest on the face of the order, undermines its soundness or results in miscarriage of justice.

(v) A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected but lies only for patent error.

(vi) The mere possibility of two views on the subject cannot be a ground for review.

(vii) The error apparent on the face of the record should not be an error which has to be fished out and searched.

(viii) The appreciation of evidence on record is fully within the domain of the appellate court, it cannot be permitted to be advanced in the review petition.

(ix) Review is not maintainable when the same relief sought at the time of arguing the main matter had been negatived.”

8. In the opinion of this Court, the aforesaid decision, rather than coming to the aid of the applicant would be against the applicant as the limited role of a Review Court has been once again emphasized by the Hon’ble Supreme Court.

9. Under the aforesaid facts and circumstances, this Court is of the opinion that no case for review has been made out and accordingly the same is dismissed.

JUDGE

Comparing Assistant