

Court No. - 64

Case :- CIVIL MISC REVIEW APPLICATION No. - 459 of 2023

Applicant :- Sri Vijay Singh

Opposite Party :- Mihi Lal (Since Died) And 15 Others

Counsel for Applicant :- Dinesh Mishra

Hon'ble Siddharth,J.

Heard Sri Dinesh Mishra, learned counsel for review applicant and Sri. Pramod Kumar Singh, learned counsel for opposite party-appellant.

Order on delay condonation application.

Learned counsel for review applicant/respondent no.4 has submitted that the present second appeal was filed in the year 2005. The respondents never came to know the filing of the this appeal only after the judgment was delivered by this Court on 13.04.2023. The applicant moved a recall application no. 14 of 2022 alongwith delay condonation application. While the delay in filing of recall/restoration application was condoned, restoration/recall application was dismissed by this Court vide order dated 24.08.2023. Hence, this review application has been filed with same delay which may be condoned.

Learned counsel for appellant/opposite party has opposed the submissions and has submitted that the review application has been filed belatedly and the explanation given for delay is not sufficient.

After the hearing the counsel for parties, this Court is of the view that cause shown for delay in filing review application is sufficient. Delay condonation application of the applicant-respondent no. 4 deserves to be allowed.

The delay in filing of the review application is **condoned**. It shall be treated as been fixed withing time throughout.

Delay condonation application is allowed.

Order on review application.

The review of the judgment and order of this court dated 13.04.2022 has been sought on the ground that the same is ex-parte and has been passed without considering the merit of the case. It has further been submitted that no substantial question of law was framed by the appellant in the appeal. The appellant never disclosed the filing of this appeal to the respondents and the judgment and order of this Court suffers from error apparent on the face of record.

Learned counsel for appellant-opposite party has opposed the submissions and has pointed out that Court has recorded the finding in the judgment dated 13.04.2022 that despite resort to all modes of service to affect the service of notices of this appeal on the respondent, no one has appeared. He has further pointed out that two substantial questions of law were framed in this appeal when it was admitted on 27.04.2010 and they have been mentioned on internal page-7 of the judgment. He has further been submitted that only respondents no. 4 has sought the review of the judgment and order dated 13.04.2022 of this Court.

After hearing the rival submissions, this Court finds that the second appeal was pending since the year 2005. The review applicant-respondent no. 4 is one of the judgment debtor and defendant in the suit. None of the other defendants-respondents have sought the review of the judgment. The second appeal was pending for about 17 years before this Court and the Court made all efforts to get the service of notice affected on the respondents, but no one turned up to oppose the appeal. There is no good ground for review of the judgment and order passed by this Court on 13.04.2022.

The review application is devoid of merits and is, hereby, **dismissed**. No costs.

Order Date :- 28.10.2023

Abhishek