

Court No. - 48

Case :- CIVIL MISC REVIEW APPLICATION No. - 507 of 2023

Applicant :- Mohril

Opposite Party :- Deputy Director Of Consolidation Basti And 2 Others

Counsel for Applicant :- Indresh Kumar

Counsel for Opposite Party :- Tripathi B.G. Bhai

Hon'ble Saurabh Shyam Shamshery,J.

1. This Review application has been filed by one Indresh Kumar, Advocate who is not present in Court when the case is called for hearing. Tripathi B.G. Bhai has appeared on behalf of respondents.

2. Relevant grounds mentioned in the Review Application are reproduced hereinafter:

"5. Because learned Single Judge has wrongly considered the alleged resolution dated 25.07.2027 which could not have been in existence in the year 2023.

6. Because learned Single Judge has committed gross error apparent on the face of record relying his judgment on the basis of alleged resolution dated 25.07.2027 not there being on record.

7. Because learned Single Judge has committed error on the face of record giving weightage to so-called resolution dated 25.07.2027 which could not have been inexistence in year 2023.

8. Because in any view of matter since there is error apparent on record in judgment dated 06.07.2023 passed by Hon'ble Mr. Justice Saurabh Shyam Shamshery in Civil Misc Writ Petition (B) No.1524 of 2023 (Mohril Vs. Deputy Director Of Consolidation and Others), the same deserves to be reviewed and writ petition aforesaid be allowed."

3. The aforesaid grounds could be considered as an outcome of a typographical error that instead of '2017' in one paragraph i.e. paragraph no.9 of the order in review, year has been wrongly mentioned as '2027' which could not be an error apparent on record, ignoring that in all other paragraphs the date was correctly

mentioned, (at least on five places), therefore, this review application is not only baseless, but was filed to obstruct administration of justice.

4. Supreme Court in **S. Murali Sundaram vs. Jothibai Kannan and others, 2023 SCC Online SC 185** has held that -:

"15. While considering the aforesaid issue two decisions of this Court on Order 47 Rule 1 read with Section 114 CPC are required to be referred to? In the case of Perry Kansagra (supra) this Court has observed that while exercising the review jurisdiction in an application under Order 47 Rule 1 read with Section 114 CPC, the Review Court does not sit in appeal over its own order. It is observed that a rehearing of the matter is impermissible in law. It is further observed that review is not appeal in disguise. It is observed that power of review can be exercised for correction of a mistake but not to substitute a view. Such powers can be exercised within the limits of the statute dealing with the exercise of power. It is further observed that it is wholly unjustified and exhibits a tendency to rewrite a judgment by which the controversy has been finally decided. After considering catena of decisions on exercise of review powers and principles relating to exercise of review jurisdiction under Order 47 Rule 1 CPC this Court had summed upon as under:

"(i) Review proceedings are not by way of appeal and have to be strictly confined to the scope and ambit of Order 47 Rule 1 CPC.

(ii) Power of review may be exercised when some mistake or error apparent on the fact of record is found. But error on the face of record must be such an error which must strike one on mere looking at the record and would not require any long drawn process of reasoning on the points where there may conceivably be two opinions.

(iii) Power of review may not be exercised on the ground that the decision was erroneous on merits.

(iv) Power of review can also be exercised for any sufficient reason which is wide enough to include a misconception of fact or law by a court or even an advocate.

(v) An application for review may be necessitated by way of invoking the doctrine actus curiae neminem gravabit."

16. It is further observed in the said decision that an error which

is required to be detected by a process of reasoning can hardly be said to be an error on the face of the record.

17. In the case of Shanti Conductors (P) Ltd. (supra), it is observed and held that scope of review under Order 47 Rule 1 CPC read with Section 114 CPC is limited and under the guise of review, the petitioner cannot be permitted to reagitate and reargue questions which have already been addressed and decided. It is further observed that an error which is not self evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of record justifying the court to exercise its power of review under Order 47 Rule 1 CPC."

5. In the present case as referred above, there is no ground to review the order passed by this Court.

6. In view of above discussion, this review petition is not only rejected, but it is **rejected** with heavy cost of Rs.50,000/- to be paid by review applicant in the accounts of High Court Legal Service Committee, High Court Allahabad.

Order Date :- 6.11.2023

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