GAHC010144842024

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

Case No. : Review.Pet./81/2025

MD ALAUDDIN AND ANR
DIST. KARIMGANJ.

2: MD. ABDUL LATIF

BOTH ARE S/O LATE IDRISH ALI
R/O VILL. NARIKOLI
P.O. LAKSHI BAZAR
P.S. AND DIST. KARIMGANJ
ASSAM

VERSUS

BIDYUT BHUSAN DAS
S/O LATE BINOD BIHARI DAS, VILL. NARIKOLI, P.O. LAKSHI BAZAR, P.S. AND DIST. KARIMGANJ, ASSAM.

Advocate for the Petitioner : MR. T J MAHANTA, MR T GOGOI,MS. R CHOUDHURY,MS. P BHATTACHARYA

Advocate for the Respondent : MS. J PAUL , MS S BHOWMICK

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

17.07.2026

Heard Shri T.J. Mahanta, learned Senior Counsel assisted by Ms. P.

Bhattacharyya, learned counsel for the petitioners. Also heard Ms. J. Paul, learned counsel for the sole respondent.

2. By the instant application, the applicant has prayed for review of the judgment and order dated 20.06.2024 passed in RSA/112/2009. By the said order, the appeal was dismissed and the substantial questions of law were answered accordingly in favour of the respondent in the appeal.

3. Shri Mahanta, learned Senior Counsel for the applicant has primarily argued that along with the appeal, there was an application filed under Order XLI Rule 27 of the CPC for taking evidence by the Appellate Court. He has submitted that the said application was not considered in the proper perspective. He further submitted that if the said application is allowed, there would be a mark change in the decision to be taken in the appeal.

4. *Per contra*, Ms. Paul, learned counsel for the opposite party has submitted that the application under Order XLI Rule 27 of the CPC was taken on board by this Court while disposing of the second appeal and accordingly, there are no grounds for preferring a review. She has also submitted that the jurisdiction to be exercised by a review court, being limited and circumscribed, no case for invoking such jurisdiction is made out.

5. As noted above, the primary ground of filing this review is non-consideration of the application under Order XLI Rule 27 of the CPC.

6. This Court has, however noted that in the judgment dated 20.06.2024 rendered by this Court in paragraph 23, there is a specific discussion on the said application, including the law laid down by the Hon'ble Supreme Court. For ready reference, the said paragraph is extracted hereunder:

"*The case of Krishna Lal Ghosh (supra) of this Court and Ibrahim Uddin (supra) of the Hon'ble Supreme Court are on the aspect of application of Order XLI Rule 27 of the Code of Civil Procedure. However, the present appeal is a second appeal where only substantial questions of law are to be decided. This Court has also noticed that the present issue which has been raised in this second appeal was not even the issue before the learned Trial Court or the First Appellate Court. The ratio laid down in the aforesaid case of Ibrahim Uddin supra) is that such application under Order XLI Rule 27 is not to be rejected at the outset but may be considered at the time of hearing and therefore the said ratio may not be applicable in the facts and circumstances of this case.*"

7. After deliberation of the matter and hearing the learned counsel for the parties, the aforesaid judgment and order dated 20.06.2024 was pronounced.

8. The scope of invoking review jurisdiction is circumscribed and limited to the parameters laid down in the relevant provisions of the CPC. The Hon'ble Supreme Court in the case of ***Kamlesh Verma Vs. Mayawati & Ors.***, reported in **(2013) 8 SCC 320**, the following has been laid down by the Hon'ble Supreme Court:

"*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 Poulose 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."

9. In the subsequent case of ***S. Madhusudhan Reddy Vs. V. Narayana Reddy & Ors.***, reported in **(2022) SCC OnLine 1034**, a Three Judges' Bench of the Hon'ble Supreme Court has reiterated the aforesaid law laid down in the case of ***Kamlesh Verma*** (*supra*).

10. In the instant case, as mentioned above, apart from the ground raised not being factually correct and there being discussion on the application filed under Order XLI Rule 27 of the CPC, the grounds are not within the purview of the grounds envisaged to invoke the review jurisdiction.

11. In view of the above, the review application stands rejected.

JUDGE

Comparing Assistant