

HIGH COURT OF CHHATTISGARH, BILASPUR

Review Petition No.49 of 2015

- Anand Kumar S/o Yakub Isai, aged about 60 years, R/o Village Tikarsani, Tahsil Pendra Road, District Bilaspur (C.G.)

---- **Petitioner**

Versus

- Arbalnath, son of Simon Kodu, aged about 71 years
- Arunnath, son of Simon Kodu, aged about 67 years
- Swarnlata, Daughter of Simon Kodu, aged about 54 years
- Arshlata, wife of K.luis, aged about 52 years
- Sailesh Kumar, son of Simon Kodu, aged about 50 years

All are resident of Village Tikarsani, Tehsil Pendra Road, Civil and Revenue District Bilaspur, Chhattisgarh

---- **Respondents**

(Application for review of the order dated 12.12.2014 passed in W.P. (227)
No.361/2014

(By circulation in chamber)

S.B. : Hon'ble Mr. Justice Prashant Kumar Mishra

28/07/2015

IA No.01

1. This is an application for condonation of delay in filing the review petition.
2. For the reasons mentioned in the application (IA No.1), the same is allowed and the delay of 134 days in filing the review petition is condoned.
3. The matter is taken up for consideration in the chamber under provisions of sub-rule (2) of Rule 90 under Chapter VI of the High Court of

Chhattisgarh Rules, 2007.

4. The review petitioner, who was respondent in W.P. (227) No.361/2014 seeks review of the order dated 12.12.2014 passed in the aforesaid writ petition solely on the ground that on the date of hearing of the writ petition, inadvertently, his counsel could not remain present before this Court. The Review Petitioner contended that the writ petitioners have not pleaded in the plaint about the length and bright of the alleged encroachment and even there is no specific decree to that effect. According to the review petitioner, on the strength of the order of this Court, the Executing Court may grant possession of the land only to meet the illegal satisfaction of the decree holders (writ petitioners).

5. On going through the record of W.P.(227) No.361/2014, it is manifest that the said petition was filed before this Court on 02.05.2014. By order dated 12.05.2014, notice was issued to the respondent (review petitioner). Despite service of notice, the review petitioner has chosen not to appear before this Court, as is evident from the order sheet dated 09.09.2014. Even on the date of final hearing, the Review Petitioner has not appeared before this Court and even no representation has been made. This Court after considering all the aspects of the matter, in its true perspective, has passed the order dated 12.12.2014, which is sought to be reviewed.

6. There is no other ground pointed out by the petitioner showing any manifest error on the record and has not further brought into the notice, any new facts, which could not be produced earlier despite diligent efforts made by the petitioner. It is well settled principles of law that the review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of Order 47 Rule 1 of the Code of Civil Procedure. Even in exercise of review jurisdiction by the High Court under Article 226 of the Constitution, the petitioner has not produced any ground for review.

7. It is well settled principle of law that under the garb of review petition, the petitioner should not be permitted to argue the entire case afresh, which would amount to convert the review petition into an appeal and the same is not sustainable in law. (See: Meera Bhanjan v. Smt. Nirmal Kumar Chowdhary, AIR 1995 SC 455, Lily Thomas etc. v. Union of India and others, AIR 2000 SC 1650, Ajit Kumar Rath v. State of Orissa and others, AIR 2000 SC 85, Government of T.N. & Others v. M. Ananchu Asari and others, (2005) 2 SCC 332, and Kerla State Electricity Board v. Hitech Electrothermicism & Hydropower Ltd. and others, (2005) 6 SCC 651.

8. As a sequel, the review petition, *sans substratum* is liable to be and is hereby dismissed.

Judge

(Prashant Kumar Mishra)