

HIGH COURT OF CHHATTISGARH AT BILASPUR

REVIEW PETITION No. 67 of 2015

1. Biharilal, S/o. Matadin, Aged About 32 Years, R/o. Gram Devrikhurd Mod, P.S.- Torwa, District- Bilaspur, Chhattisgarh
2. Baliram, S/o. Dayadas, Aged About 26 Years, R/o. Gram Darrighat, Masturi, District- Bilaspur, Chhattisgarh

---- Applicants

Versus

1. Parmeshwari, W/o. Shri Ramfal, Aged About 44 Years,
2. Satyvan, S/o. Ramfal, Aged About 26 Years
3. Narendra Kumar, S/O. Ramfal, Aged About 22 Years
4. Ku. Satyasheela, D/O. Ramfal Aged About 24 Years

All are R/O Gram- Konargarh, District- Janjgir - Champa, Chhattisgarh

5. Oriental Insurance Company Ltd, Bilaspur, Chhattisgarh

---- Respondents

(By Circulation in Chamber)

SB : Hon'ble Shri Goutam Bhaduri, J.

ORDER

06.11.2015

1. 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.
2. The review petition is preferred by the applicants for review of the order dated 20.03.2015, passed in M.A. No. 512/2004. The review petition is also attached with an application for condonation of delay as it is barred by 82 days.
3. It is submitted that the applicants were not aware of the fact about the pendency of the miscellaneous appeal because they had not

engaged counsel directly and the advocate, appeared on behalf of the applicants were engaged by the counsel of the Trial Court, therefore, they were completely unaware of the fact. Consequently, the delay is sought to be condoned. Further more it has been averred that in the miscellaneous appeal, the notices were not duly served upon the applicants but on the instructions of the counsel, who represented them, before the Court below had engaged Advocate on their behalf.

4. Perusal of the file of the appeal memo and the order sheet would show that Shri Jamil Akhtar Lohani, Advocate appeared on behalf of the respondent No.5 & 6, the applicants herein. Power on behalf of respondent No.5, Biharilal is also on record. Further perusal of the order would show that all the provisions of law have been considered. The prayer made in the review petition appears to be misconceived. The applicants have not pointed out any manifest error on the face of record and they have not brought to the notice of this Court any new facts which could not be produced earlier.
5. 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. It appears that the applicants by filing this review petition seeks an opportunity to argue the entire case afresh on merits under the garb of the review petition, which is not permissible and tenable in law. It is also well settled that under the garb of review petition, the applicants 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.

6. Further Hon'ble the Apex Court in ***State of West Bengal and others Vs. Kamal Sengupta and another (2008) 8 SCC 612*** held in para 22 that mistake or error apparent signifies an error which is evident *per se* from the record of the case and does not require detailed examination, scrutiny and elucidation either of the facts or the legal position. If an error is not self-evident and detection thereof requires long debate and process of reasoning, it cannot be treated as an error apparent on the face of the record for the purpose of Order 47 Rule 1 CPC.
7. Here in this case, perusal of the order would show that entire case was considered on merits at length, therefore, in view of the above settled proposition of law, no grounds for review is available. Further, the grounds for delay of 82 days in filing the review petition, which has been stated by the applicants, also do not appears to be correct statement of fact to be accepted as a bonafide statement.
8. Consequently, after due consideration, in my opinion no case for condonation of delay and further review of the order dated 20.03.2015 is made out.
9. In a result, the review petition is without any substance, the same deserves to be and is hereby dismissed.

**Sd/-
(Goutam Bhaduri)
Judge**