

CM Nos.6583 to 6585-C of 2014 in
RA-31-C-2014 in
RSA No.1328 of 1985
Date of decision : 27.03.2015

V/S

Murli Ram and others ...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Mr. G. S. Goraya, Advocate for respondent Nos.1 to 4

JITENDRA CHAUHAN, J. (Oral)

CM No.6584-C of 2014

The documents proposed to be brought on record have no bearing on the subject in issue.

RA-31-C of 2014

This is a review application under Order 47 Rule 1 read with Section 151 of CPC for reviewing the order dated 31.01.2011 passed by this Court.

The review of the judgment dated 31.01.2011 has been sought by the applicant on the ground that subsequent events, if taken

into account, will re-adjudicate the matter properly. It is contended that two notices dated 05.09.2011 and 16.09.2011 under Section 181 of the Punjab Municipal Act were served upon the appellant for seeking clarification of the illegal encroachment done by the appellant/non-applicant upon the land measuring 46 x 37 of the applicant-Municipal Committee and thereby to remove the same. He further contends that on 21.09.2011 another notice seeking clarification regarding excess construction on a total land of 327 sq. yard for which no sanction was obtained from the applicant-Municipal Committee and which is also surplus to that sold to the appellant was also issued. That after receipt of these notices, the appellant herein filed a civil suit against the applicants and that after verifying the facts, on 06.03.2014 Deputy Commissioner, Jind ordered for registration of criminal case against the delinquent officials. Consequently a criminal case vide FIR No.157 dated 19.04.2014 under Sections 420/467/468/471 IPC was registered against the appellants, in which the investigation is going on.

Learned counsel for the appellant oppose the review application and contends that the subsequent events, if any, cannot be taken into consideration after the decision of the main Regular Second Appeal.

I have heard the rival contentions of the parties.

The Hon'ble Supreme Court of India in **Kamlesh Verma**

Vs. Mayawati and others framed the guidelines where the review

petition will not be maintainable, which read as under:-

“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 re-heard 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.”*

There is no mistake or error apparent on the face of record and there is no sufficient reason to review the well reasoned judgment in the Regular Second Appeal which reached finality. The matter cannot be re-heard in this review petition after delay of more than three years
three months.

Accordingly this review petition is not maintainable.

CM 6583-C-2014

There is delay of 1172 days in filing the present review application. There is no sufficient ground to condone the delay, as main review petition is not maintainable, this application under Section 5 of the Limitation Act for condone the delay is also dismissed.

As the applicant has wasted the time of the Court by filing this review petition on false and frivolous grounds after delay of three years three months, this court is of the opinion that such tendency should be curbed. Therefore, this review petition along with application under Section 5 of the Limitation Act is dismissed with cost of Rs.25,000/-.

27.03.2015
ashok

(JITENDRA CHAUHAN)
JUDGE