

HIGH COURT OF CHHATTISGARH, BILASPUR

REVP No. 73 of 2016

- Komal Singh Dhurendhar S/O Late Shri Teksingh, Aged About 42 Years R/O Village Khamahariya, Tahsil Patan Civil and Revenue District Durg, Chhattisgarh(Plaintiff)

---- Petitioner

Versus

1. Narayan Singh Dhurendhar S/O Late Shri Teksingh, R/O Polsay Para Laxminarayan Mandir, At Present New Adarsh Nagar, Durg, Civil And Revenue District Durg (Chhattisgarh)
2. Narsingh Dhurendhar S/O Late Shri Teksingh, R/O Village Dhidha Bhatha, Ranitarai, Durg, Civil and Revenue District Durg (Chhattisgarh)
3. Smt. Girja Bai Jau W/O Late Shri Teksingh, (Wrongly Mentioned ss Son Of) R/O Dhidha Bhatha, Ranitarai, Durg, Civil and Revenue District Durg (Chhattisgarh)
4. State Of Madhya Pradesh (Now Chhattisgarh), Through Collector, Durg, Civil and Revenue District Durg (Chhattisgarh)(Defendants)

---- Respondents

For Petitioner : Shri Punit Ruparel, Advocate
For Respondent No.4/State : Shri Anupam Dubey, Dy. G.A.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

14/06/2016

The present review petition has been preferred against the order dated 09-01-2014 passed by this Court in Second Appeal No.128 of 1999 whereby the appeal filed by the petitioner has been dismissed. The sole ground of the applicant seeking review of the order dated 09-01-2014 is an undated document which is a complaint lodged by the appellant/petitioner to the Superintendent of Police, Durg. However, on a specific query being put to the counsel for the petitioner as to whether this document was at all part of the record of two proceedings i.e. before the trial Court as also in the First appeal, learned counsel for the petitioner

submitted that it was not a part of the record and it was also not part of record with the second appeal.

2) So far as the review jurisdiction is concerned, law by now is well settled. Under the garb of review jurisdiction, the matter cannot be re-heard unless the issue only there being an error apparent on the face of the record. But, in the instant case, the petitioner has failed to show any such error which has occurred on the basis of which the review jurisdiction can be invoked.

3) It is settled position of law that a second appeal can only be admitted for hearing subject to the same having substantial question of law. In the instant case, after considering the submissions put-forth by counsel for the appellants therein, this Court had reached to the conclusion that there was no substantial question of law involved in the matter and accordingly, the second appeal was dismissed. Now by way of the instant review petition, the petitioners have not been able to point out any manifest much less error on the face of the record said to have been committed by this Court in the process of deciding the second appeal on 24-10-2013. It is also the legal position settled by a catena of decisions that review proceedings are not in the nature of the appeal and the review application has to be strictly confined to the scope of ambit of Order 47 Rule 1 CPC.

4) From the documents of the review petition, it appears that the petitioners seek an opportunity to argue the entire case afresh on merits under the garb of the review petition only on the basis of certain documents which were not part of the record in any of the proceeding till now adjudicated upon which otherwise is not permissible nor is tenable in the eyes of law. It is trite at this juncture to refer to

certain decisions rendered by the Hon'ble Supreme Court on the question of entertaining the review petition in the matters of **Kerala State Electricity Board vs. Hitech Elctrothermicism & Hydropower Ltd. and others** reported in (2002) 6 SCC 651, **Government of T.N. & others vs. Ananchu Asari and others** reported in (2005) 2 SCC 332, **Ajit Kumar Rath vs. State of Orissa and others** reported in AIR 2000 SC 85, **Lily Thomas etc. vs. Union of India and others** reported in AIR 2000 SC 1650 and **Meera Bhanjan vs. Smt. Nirmal Kumar Chowdhary** reported in AR 1995 SC 455.

5) All these judgments referred to above deal with the scope of a review petition and the crux of all these judgments, as a matter of principle as laid down by the Hon'ble Supreme Court is that in the garb of a review petition, the petitioner cannot be permitted to argue the entire case afresh which would amount to converting the review petition into an appeal unless there is an error on the face of the record and on the part of the Court in passing of the judgment against which the review is sought for.

6) For the foregoing reasons, the review petition being devoid of merits is liable to be and is hereby dismissed.

Sd/-
(**P.Sam Koshy**)
JUDGE