

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

R.A. No. 372 of 2016 in
CWP No. 220 of 1995
Date of decision: 19.12.2016

Tribhawan Vashisht

....Petitioner(s)

Versus

The Registrar, Cooperative Societies, Punjab and others ...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. S.S. Chhokar, Advocate,
for the review applicant-petitioner.

G.S.SANDHAWALIA, J. (Oral)

The present application has been filed for review of the judgment dated 07.01.2016 on the ground that the copy of the inquiry report was not supplied to the petitioner and neither any show cause notice was issued on the quantum of punishment.

A perusal of the judgment under review would go on to show that the judgment was dictated in the presence of the then counsel for the petitioner in open Court which would be clear that it has been recorded that it was an 'oral' judgment. The said order was upheld in appeal by the Division Bench on 11.07.2016 wherein also, an attempt was made to raise the said plea unsuccessfully. However, before the Apex Court, an argument was raised that the point which is now sought to be taken was argued before this Court. Resultantly, the Apex Court vide order dated 21.10.2016, on the impression given, was of the view ***that if it was so***, the application for review could be filed.

As noticed, the judgment was dictated in Court. The

application for review has been filed by the counsel other than the one who had argued the case at that point of time. Thus, it is apparent that the present counsel is not in a position to submit that the matter was so argued as was held out before the Apex Court. The Apex Court in ***T.N. Electricity Board and another vs. N. Raju Reddiar and another, 1997 (9) SCC 736*** has held that review applications are not to be entertained if filed by the counsel who was not the original counsel. The relevant observations read thus:-

“When an appeal/special leave petition is dismissed, except in rare cases where error of law or fact is apparent on the record, no review can be filed; that too by the advocate on record who neither appeared nor was party in the main case. It is salutary to note that Court spends valuable time in deciding a case. Review petition is not, and should not be, an attempt for hearing the matter again on merits. Unfortunately, it has become, in recent time, a practice to file such review petitions as a routine; that too, with change of counsel, without obtaining consent of the advocate on record at earlier stage. This is not conducive to healthy practice of the Bar which has the responsibility to maintain the salutary practice of profession. In Review Petition No.2670/96 in CA No.1867/92, A Bench of three Judges to which one of us, K. Ramaswamy,J., was a member, has held as under:

"The record of the appeal indicates that Shri Sudarsh Menon was the Advocate-on-record when the appeal was heard and decided on merits. The Review Petition has been filed by Shri Prabir Chowdhury who was neither an arguing counsel when the appeal was heard

nor was he present at the time of arguments. It is unknown on what basis he has written the grounds in the Review Petition as if it is rehearing of an appeal against our order. He did not confine to the scope of review. It would be not in the interest of the profession to permit such practice. That part, he has not obtained "No Objection Certificate" from the Advocate-on-Record in the appeal, in spite of the fact that Registry had informed him of the requirement for doing so. Filing of the "No Objection Certificate" would be the basis for him to come on record. Otherwise, the Advocate-on-Record is answerable to the Court. The failure to obtain the "No Objection Certificate" from the erstwhile counsel has disentitled him to file the Review Petition. Even otherwise, the Review Petition has no merits, It is an attempt to reargue the matter on merits. On these grounds, we dismiss the Review Petition".

2. *Once the petition for review is dismissed, no application for clarification should be filed, much less with the change of the advocate-on-record. This practice of changing the advocates and filing repeated petitions should be deprecated with heavy hand for purity of administration of law and salutary and healthy practice.*

3. *The application is dismissed with exemplary costs of Rs.20,000/- as it is an abuse of the process of court in derogation of healthy practice. The amount should be paid to the Supreme Court Legal Aid Services Committee within four months from today. If the amount is not paid, it should be recovered treating this direction*

as decree of the Court by the Supreme Court Legal Services Committee. The Registry is directed to communicate this order to the Supreme Court Legal Service Committee.

Application dismissed”.

The said observations are more relevant particularly in the facts of the present case as an impression was apparently given that the issue which is now sought to be raised was argued before this Court, which is not apparent from the record. Even in the present case also, no objection has not been taken from the earlier counsel who had argued the case for the petitioner.

In such circumstances, no case is made out for review and the present application is dismissed.

19.12.2016
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No