

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

REVP No. 89 of 2017

(Arising out of order dated 15/3/2012 passed in WP 227
No.6862 of 2010)

1. Sanjeev Shah S/o Late Shri Lal Bhishma Dev Shah
2. Meghna Shah D/o Late Shri Lal Bhishma Dev Shah,
3. Menka Markam D/o Late Shri Lal Bhishma Dev Shah
4. Manjri Uikey D/o Late Shri Bhishma Dev Shah,

All are R/o Village Ambagarh Chowki, Tahsil Ambagarh Chowki,
District Rajnandgaon, Chhattisgarh(Respondent No. 1
And 4 To 6 In W.P.(227) No. 6862/2010)

---- Petitioner

Versus

1. Ramdayal S/o Jagdev, Aged About 56 Years R/o Ward
No.12, Sardar Patel Ward, Ambagarh Chowki, Tahsil
Ambagarh Chowki, District Rajnandgaon,
Chhattisgarh(Petitioner In W.P.(227) No.
6862/2010)
2. Sanjay Shah S/o Late Shri Lal Bhishma Dev Shah,
(Respondent No. 2 In W.P.(227) No. 6862/2010)
3. The State Of Chhattisgarh, Through The Collector,
Rajnandgaon, Chhattisgarh
4. The Sub Divisional Officer (Revenue), Mohla, District
Rajnandgaon, Chhattisgarh
5. The Tahsildar, Ambagarh Chowki, District Rajnandgaon,
Chhattisgarh(Respondent No. 7 To 9 In W.P.
(227) No. 6862/2010)

---- Respondent

Application for review of the Order dated 15-03-2012
passed in

W.P.227 No. 6862 of 2010

By Circulation in Chamber

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

31/08/2017

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 petitioners (in short "the petitioners") seek review of the order dated 15-03-2012 passed by this Court in W.P. 227 No. 6862 of 2010 on the ground that in the writ petition respondent No. 2 Sanjay Saha was only represented, but since 2007 the said respondent No.2 is suffering from Brain Stroke with Paralysis with Sepsis and from 2012 onwards, the condition of respondent No.2 is deteriorating day by day and is continuously hospitalized and as such, he could not take proper care of the writ petition and instruct the counsel properly. According to the review petitioners, when they got notice from the Court of Tahsildar, Ambagarh Chowki in Revenue Case No. 13-A/6, Year 2016-2017 for their appearance on 06-03-2017 before the said authority, which was filed by the writ petitioner Ram Dayal, came to know about the order passed by this Court on 15-03-2012, which is sought to be reviewed herein.
3. After going through the record of the writ petition, it is manifest that the notice issued in the writ petition has been properly served on the review petitioners. This Court after appreciating all the facts and circumstances of the case in its true perspective passed the order dated 15-03-2012 in W.P. 227 No. 6862 of 2010. The present

review petition has been filed by the review petitioners on 26 July, 2017 seeking review of the order dated 15-03-2012 without giving sufficient and cogent reasons for causing inordinate delay in approaching this Court.

4. It is the well settled proposition of law that if there is inordinate delay on the part of the petitioner in filing a petition and such delay is not satisfactorily explained, the High Court may decline to intervene and grant relief. {See: Chennai Metropolitan Water Supply and Sewerage Board and Others v. T.T. Murali Babu (2014) 4 SCC 108}
5. On consideration of the above-stated grounds, which are in the nature of taking liberty to re-argue the writ petition are unsustainable in the eyes of law. The petitioner cannot be allowed to commit a volte-face and take up new pleas in review petition.
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 appears that the petitioner by presentation of 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.

8. 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 Electrothemicsm & Hydropower Ltd. And others, (2005) 6 SCC 651.
9. As a sequel, the review petition, *sans substratum* is liable to be and is hereby dismissed.

Sd/-

Judge

Prashant Kumar Mishra