

BHARAT BHUSHAN BANSAL VS. SATISH KUMAR BANSAL

Present: Mr. Maninder Arora, Advocate
for the applicant-appellant.

This application has been moved under Order 47 Rule 1 read with Section 114 Civil Procedure Code seeking review of the judgment dated 13.1.2017.

I have heard the counsel for the applicant-appellant.

Giving the brief backdrop, defendant had filed a second appeal aggrieved by the judgments of both the Courts below. The dispute was between two brothers with respect to a house. The plaintiff was seeking mandatory injunction against his brother and for direction to him to vacate the property and remove his goods. The suit was dismissed though a finding was given that the title rested in the plaintiff. It was noted that a settlement had been effected and pursuant to that settlement, the defendant was put in possession and some amount had been paid and the defendant was a licensee and the suit for mandatory injunction was not maintainable. The plaintiff filed an appeal which was allowed. The defendant was ordered to vacate the premises within three months and also pay damages from the date of institution of the suit. It was held that the plaintiff was the owner therefore, there was no reason for him to settle with the defendant and the conveyance deed/allotment stood in his name.

The regular second appeal was dismissed on 13.1.2017. The appellant has approached this Court seeking review of the judgment. The grounds are mentioned in para 2 of the application.

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Under Order 47 Rule 1 CPC, a judgment is open to review if there is a mistake or an error apparent on the face of the record. An error which is not self evident cannot be stated to be an error apparent on the face of the record justifying the Court to exercise the powers. In the guise of rehearing, the appellant has moved this application. An application for review would not be maintainable. The appellant has asked for re-hearing of the dispute on the ground that there was no favourable verdict. The aggrieved party has an adequate and efficacious remedy and they cannot ask for re-hearing of the whole appeal. There is no mistake apparent on the face of the record.

The application is dismissed.

March 01, 2017

Gurpreet

**(ANITA CHAUDHRY)
JUDGE**