

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.**

**CM-608-C-2017 in/&
RA-RS No.5-C of 2017 (O&M) in RSA-3670-2006**
Date of decision: 23.03.2017

Karam Singh & others

-----Appellant(s)

Vs.

Ram Singh

-----Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. D.D. Gupta, Advocate and
Mr. Ajay Kumar Gupta, Advocate
for the applicant-respondent.

HARI PAL VERMA, J.

CM-608-C-2017:

By way of present application filed under Section 5 of the Limitation Act read with Order 47 Rule 1 CPC, the applicant seeks condonation of delay of 2650 days in filing this review application seeking review of judgment dated 10.9.2009 passed by this Court in RSA-3670-2006.

Condonation of delay while seeking review is sought on the ground that the applicant is aged person and remained ill from the years 2010 to 2016, but now, survived from his miseries. After recovering from his ailments, the applicant has made an endeavour to find out the entire primitive revenue records which was earlier in District Karnal and now in District Kaithal and in this manner, delay has occurred in filing the present review application.

Heard.

The instant appeal i.e. RSA-3670-2006 was dismissed on 10.9.2009, against which, the applicant approached Hon'ble the Apex Court by filing Special Leave to Appeal (Civil) No.794 of 2010, which was dismissed vide order dated 30.7.2010. Even the Review Petition (C) No.1659 of 2010 in SLP (Civil) No.794 of 2010, filed by the applicant, was also dismissed vide order dated 5.10.2010.

It seems that the applicant after exhausting all his remedies upto Hon'ble the Apex Court wants to revive the RSA No.3670 of 2006, which was dismissed on 10.9.2009. The applicant has not submitted anything new on record to justify the condonation of extra-ordinary delay of 2650 days in filing the present review application.

Therefore, the present application is dismissed.

RA-RS No.5-C of 2017 (O&M) in RSA-3670-2006:

The applicant-respondent has filed the present review application under Order XLVII, Rule 1 read with Sections 114 and 151 CPC for review/recalling of the judgment dated 10.9.2009 passed by this Court, whereby Regular Second Appeal filed by the non-applicant-defendants was allowed and judgment and decree dated 31.8.2006 passed by the lower Appellate Court was set aside and resultantly, the suit for possession filed by the respondent-plaintiff was dismissed.

Against the judgment and decree dated 10.9.2009 passed by this Court, the applicant-plaintiff Ram Singh had filed Special Leave to Appeal (Civil) No.794 of 2010, however, the same was dismissed by Hon'ble the Apex Court vide order dated 30.7.2010. Dissatisfied with the order dated 30.7.2010, the applicant filed Review Petition (C) No.1659 of

2010 in SLP (Civil) No.794 of 2010, which was also dismissed vide order dated 5.10.2010.

Still not satisfied, the applicant-plaintiff Ram Singh has filed the present review application seeking review/recalling of judgment dated 10.9.2009 passed by this Court.

Learned counsel for the applicant has referred to a judgment of Hon'ble the Apex Court in the case of **Kunhayammed & others v. State of Kerala & another 2000(6) SCC 359** to contend that even if SLP has been dismissed by Hon'ble the Apex Court, the remedy of filing an application for review/recalling is not exhausted.

I have heard learned counsel for the applicant and do not find any material to hold that there is any error apparent in law in the judgment passed by this Court. Review is not a re-hearing of an original matter and therefore, the power of review cannot be confused with appellate power, which enables a superior Court to correct the errors committed by a subordinate Court. Under the garb of review, the applicant seeks rehearing of the original matter, which stands adjudicated by Court of competent jurisdiction, which is not permissible in law.

In view of law laid down by Hon'ble the Apex Court in **Tamilnadu Terminated Full Time Temporary LIC Employees Association v. S.K. Roy, The Chairman, LIC & another 2016(2) SCC (L&S) 627**, this Court does not find any reason to interfere in the matter.

Accordingly, the review application is dismissed.

March 23, 2017

AK

Whether speaking / reasoned?

Whether reportable?

(HARI PAL VERMA)

JUDGE

Yes / No

Yes / No