

Shailaja

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
REVIEW PETITION (ST) NO. 30658 OF 2017
IN
WRIT PETITION NO. 10322 OF 2015**

Dr. (Mrs.) Kasturi Nayak		Review Petitioner
Vs.		
The Konkan Railway Corporation Ltd.		
and others.		Respondents

.....

Mr. Saikumar Ramamurthy, for Petitioner.
Ms. Preethi Chamikutty, for Respondent No.4.

.....

**CORAM : NARESH H. PATIL AND
NITIN W. SAMBRE, JJ.**

DATE : JANUARY 31, 2018.

P.C.

Heard the learned Counsel for the parties.

2. Perused the grounds raised in the Review Petition. Considered the submissions advanced.

3. The learned Counsel for the Petitioner placed reliance on the judgment of the Hon'ble Apex Court in the case of **Meera Bhanja (Smt) Vs. Nirmala Kumari Choudhary (Smt.)**, (1995) 1 Supreme Court Cases 170, wherein the Apex Court in paragraph 8 has observed;

“It is well settled 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, C.P.C. In connection with the limitation of the powers of the Court under Order 47, Rule 1, while dealing with similar jurisdiction available to the High Court while seeking to review the orders under ?Article 226 of the Constitution of India, this Court, in the case of *Aribam Tuleshwar Sharma v. Aribam Pishak Sharma*, speaking through Chinappa Reddy, J. has made the following pertinent observations: (SCC p. 390, para 3)

“It is true as observed by this Court in *Shivdeo Singh v. State of Punjab*, there is nothing in Article 226 of the Constitution to preclude the High Court from exercising the power of review which inheres in every Court of plenary jurisdiction to prevent miscarriage of justice or to correct grave and palpable errors committed by it. But, there are definitive limits to the exercise of the power of review. The power of review may be exercised on the discovery of new and important matter or evidence which after the exercise of due diligence was not within the knowledge of the person seeking the review or could not be produced by him at the time when the order was made; it may be exercised where some mistake or error apparent on the face of the record is found; it may also be exercised on any analogous ground. But, it may not be exercised on the ground that the decision was erroneous on merits. That would be the province of a court of appeal. A power of review is not to be confused with appellate power which may enable an appellate court to correct all manner of errors committed by the subordinate court.

4. Learned Counsel for the Petitioner further placed reliance on the judgment of the Hon'ble Apex Court in the case of **Promoters & Builders Assn. Of Pune Vs. Pune Municipal Corpn. & Others, (2007) 6 Supreme Court Cases 143** wherein the Apex Court in paragraph 13 has observed;

“As was observed by this Court in *Col. Avtar Singh Sekhon v. Union of India* review is not a routine procedure. A review of an earlier order is not permissible unless the Court is

satisfied that material error, manifest on the face of the order undermines its soundness or results in miscarriage of justice. A review of judgment in a case is a serious step and reluctant resort to it is proper only where a glaring omission or patent mistake or like grave error has crept in earlier by judicial fallibility... The stage of review is not a virgin ground but review of an earlier order which has the normal feature of finality. This view has been reiterated in *Devender Pal Singh v. State, NCT of Delhi* (SCC para 16). This being the legal position, there is absolutely no ground for review of the judgment and order dated 5-5-2004. The review petitions are, therefore, liable to be dismissed”.

5. The grounds of review do not commend to us to exercise our review jurisdiction.

6. In view of aforesaid observations, entertaining Review Petition would amount to re-hearing of the Writ Petition. Review Petition is dismissed.

[NITIN W. SAMBRE, J.]

[NARESH H. PATIL, J.]