

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

RA-RS-43-C-2016 in
RSA No.3377 of 2011(O&M)
Date of Decision:18.05.2018

Siri Ram

.....Petitioner

Vs.

Bal Krishan

.....Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr.Ashish Aggarwal, Senior Advocate for
Mr.Vijay S. Kajla, Advocate for the applicant-appellant.

AMIT RAWAL J.(Oral)

CM -3503-C-2016

For the reasons stated in the application which is duly supported by an affidavit, the application is allowed and the delay of 20 days in re-filing the review application is condoned.

CM stands disposed of.

RA-RS-43-C-2016

This review application is against the order dated 10.12.2015 whereby while dismissing the appeal preferred by the applicant-appellant/defendant against the judgment and decree of the courts below suit for specific performance of agreement to sell dated 25.05.2004 was decreed.

Mr.Ashish Aggarwal, Sr. Advocate assisted by Mr. Vijay S. Kajla, learned counsel appearing on behalf of the review applicant submits the description of the property is in dispute.

I am afraid that the aforementioned arguments is not sustainable and can not be brought within the realm of perversity, as this Court while dismissing the appeal upheld the judgment and decree of the courts below, for, the applicant-appellant did not deny the description of the property in the pleadings or at the time when the case was being tried before the trial Court.

The review application tantamounts to re-agitating of the grounds of appeal which is not permissible in view of the *ratio decidendi* culled out by the Hon'ble Supreme Court in “***Tamilnadu Terminated Full Time Temporary LIC Employees Association Vs. S.K. Roy, The Chairman, Life Insurance Corporation of India and another***” 2016 (9) SCC 366. The relevant paragraph of the judgment reads as under:-

"Review is not re-hearing of an original matter. The power of review cannot be confused with appellate power which enables a superior court to correct all errors committed by a subordinate court. A repetition of old and overruled argument is not enough to re-open concluded adjudications. This Court, in Jain Studios Ltd. v. Shin Satellite Public Co. Ltd. (2006) 5 SCC 501, held as under:

11. So far as the grievance of the applicant on merits is concerned, the Learned Counsel for the opponent is right in submitting that virtually the applicant seeks the same relief which had been sought at the time of arguing the main matter and had been negatived. Once such a prayer had been refused, no review petition would lie which would convert rehearing of the original matter. It is settled law that the power of review cannot be confused with appellate power which enables a superior court to correct all errors committed by a subordinate court. It is not rehearing of an original matter. A repetition of old and overruled argument is not enough to reopen concluded adjudications. The power of review can be exercised with extreme care, caution and circumspection

and only in exceptional cases."

In view of the aforementioned observation, I do not find any error apparent on the face of record, much less, no ground is made out for interference and accordingly, the present review application stands dismissed.

(AMIT RAWAL)
JUDGE

18.05.2018
Anjal

Whether speaking/reasoned? Yes/No

Whether reportable? Yes/No