

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

R.A.No.87-C of 2016 (O&M) in
R.S.A.No.1786 of 2010
Date of Decision: May 17, 2018

Baljinder Kaur & others

...Appellants

Versus

Paramjit Kaur & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr.Ashish Aggarwal, Senior Advocate with
Mr.Vijay S. Kajla, Advocate,
for applicant-respondent No.1.

AMIT RAWAL, J.

Prayer in the application is for review of the order dated
15.3.2016.

Mr.Ashish Aggarwal, learned Senior Counsel assisted by
Mr.Vijay S. Kajla, learned counsel for the applicant-respondent No.1
submitted that the non-applicant/appellants have not produced the original
Will dated 15.9.1981 on record and at the time of recording of statement of
DW-4, they moved an application for leading secondary evidence to prove
the Will dated 15.9.1981, which was allowed. Merely by allowing
secondary evidence, the existence and execution of the Will is not proved.
No evidence has been led with regard to loss of the Will.

It was next contended that the appellants tried to mislead this
Court. The Will has not seen the light of the day. Even the original Will has
not been appended with the mutation record. Applicant-respondent No.1

was unmarried at the time of execution of Will and it was unbelievable that the father would execute a Will in the presence of unmarried daughter and not give her an inch of land or even a single penny. A fraud has been played by defendant No.1. Even the mutation proceedings were subsequently challenged before the revenue record. The name of the widow of Wadhawa Ram mentioned in the Will is not correct. The conduct of defendant No.1 speaks for itself. Immediately, after the mutation, he transferred the land in dispute in favour of his wife and children and some third persons and subsequently got the land re-transferred from third persons and, thus, urged this Court for reviewing the order under challenge.

I have heard the learned counsel for the applicant-respondent and appraised the paper book.

The grounds of review, noticed above, tantamount to re-agitating 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 negated. 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."

No explanation has come forward for filing the review application after the limitation period.

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 on merits as well as on delay.

May 17, 2018
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No