

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

R.A.No.482 of 2017 (O&M) in
C.W.P. No.4430 of 2003
Date of Decision: May 31, 2018

Vivek Gupta & others

...Petitioners

Versus

State of Haryana & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr.Sanjeev Sharma, Senior Advocate with
Mr.Gaurav Mohunta, Advocate,
for applicant/respondent Nos.4 to 7.

Mr.Rajbir Singh, AAG, Haryana,
for the State.

Mr.V.K.Jain, Senior Advocate with
Mr.Ravi Kadian, Advocate,
for non-applicant/petitioners.

AMIT RAWAL, J.

CM No.1123 of 2018 in RA No.482 of 2017

Prayer in the application is for placing on record brief synopsis
and list of dates and events.

Allowed subject to just all exceptions.

CM No.1231 of 2018 in RA No.482 of 2017

Documents Annexures C-1 to C-34 are taken on record.
Exemption is also granted from filing certified copies thereof.

CM stands disposed of.

RA No.482 of 2017 (O&M)

This Court, vide order dated 8.3.2017, had allowed Civil Writ
Petition No.4430 of 2003 by setting-aside the impugned orders dated

10.2.1986 (Annexure P-24), 5.7.1987 (Annexure P-25) and 7.2.2003 (Annexure P-42).

The present review application has been filed on behalf of the applicant-respondent Nos.4 to 7 seeking review of the order dated 8.3.2017 by annexing documents Annexures C-1 to C-34 on the premise that vide order dated 17.6.1961 (Annexure C-8), the application of Harbhagwan Nanda, Kamla Rani and S.C.Mitra for allotment of land was dismissed on the ground that the khasra numbers could not be partitioned as the saleable value of the land was more than ₹10,000/-, thus, there was an error apparent on record.

After the amendment of the rules, when the price of ₹10,000/- was replaced by ₹15,000/-, only Harbhagwan Nanda was granted permission to purchase the land for ₹14,400/-, whereas the application of Kamla Rani Nanda was rejected. Appeal of Kamla Rani Nanda against the order of Chief Settlement Commissioner was dismissed, but, however, revision was allowed. Revaluation of the land of Kamla Rani Nanda was done and after revaluation, Kamla Rani Nanda was allotted land measuring 7 bighas 11 biswas and Harbhagwan Nanda 4 bighas 1 biswa. This Court had set-aside the impugned orders on the premise that the sale deeds/conveyance deeds can only be set-aside by way of a civil suit as quasi judicial authority had no power, but, in fact, these were not sale deeds but transfer deeds. Suhagwanti applicant was never supplied copy of the cancellation order of the auction conducted in her favour, rather was informed that there was no order of cancellation of auction in her favour, therefore, no order of transfer of land could have been made in favour of Harbhagwan Nanda and Kamla Rani Nanda. It has also been contended that

the possession of the land is already with Suhagwanti (auction purchaser).

The aforementioned review application has been resisted by Mr.V.K.Jain, learned Senior Counsel assisted by Mr.Ravi Kadian on the premise that all these factors tantamount to re-agitating the issue. In fact, they were registered conveyance deeds, which have the trappings of the sale deeds and not the transfer deeds and, therefore, the rules relied upon by the review applicants vesting the powers with the Managing Officer for cancellation of the allotment cannot be pressed into service. The scope of the review petition under Section 114 of CPC or Order 47 Rule 1 CPC is limited and, thus, prayed for dismissal of the review application.

Regarding the possession, it has been seriously contended by Mr.Jain that the possession of the subsequent vendees of Kamla Rani Nanda and Harbhagwan Nanda had been admitted by the review-applicants in LPA No.1245 of 2017.

I have heard the learned counsel for the parties, appraised the paper book and of the view that there is no error apparent on the record. The apprehension expressed by the review-applicants of converting the conveyance deeds to transfer deeds is wholly misplaced, for, as per record the conveyance deed had been executed on behalf of the State. It has a trapping of sale deeds having been registered before the Sub Registrar. Any registered document can be set-aside only through competent court of law.

In view of the detailed reasoning assigned in the order sought to be reviewed, I am of the view an attempt has been made to re-agitate the issue, 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."

In view of the aforementioned observations, 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.

May 31, 2018
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No