

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**REVP No. 86 of 2018**

Radheshyam @ Ulla, s/o Darbari (Since Died) Through
Legal Heirs

1. Smt. Leelawati Widow of Radheshyam Aged About 55 Years
2. Umesh Kumar S/o Radheshyam Aged About 35 Years
3. Dharmajeet S/o Radheshyam Aged About 30 Years

All are R/o Village Kusmusi, Tahsil Surajpur (Now
Bhaiyathan), District Surguja Now Surajpur Chhattisgarh.

---- **Petitioners**

Versus

1. Bangu S/o Late Shri Daya Aged About 71 Years
2. Biswanath S/o Late Shri Daya Aged About 58 Years
3. Chhaua S/o Late Shri Daya Aged About 46 Years
4. Parbat D/o Late Shri Daya, now aged about 74 Years

All are Agriculturist, Caste Gaderi, R/o Kusmusi, Tahsil -
Surajpur, District Surguja (Now Surajpur) Chhattisgarh.

5. State Of Chhattisgarh, Through The Collector Surajpur
Chhattisgarh

(Application for review of the order dated 28-1-2011 passed in
Second Appeal No.19 of 2007

(By circulation in chamber)

S.B. : Hon'ble Mr. Justice Prashant Kumar Mishra

2/1/2019

IA No.01

1. This is an application for condonation of delay of 2695 days
in filing the review petition.

2. For the reasons mentioned in the application (IA No.1), the same is allowed and the delay of 2695 days in filing the review petition is condoned.

3. The matter is taken up for consideration in the chamber under provisions of sub-rule (2) of Rule 90 under Chapter VI of the High Court of Chhattisgarh Rules, 2007.

4. The review petitioners (the legal heirs of the appellant/defendant in the second appeal) seek review of the order dated 28-1-2011 passed in SA No.19 of 2007 merely on the ground that without appreciating the facts and circumstances of the case as well as the question of law in its true perspective dismissed the second appeal. According to the review petitioners, while dismissing the second appeal this Court failed to appreciate the fact that the first appellate Court has not at all considered the case on its own merits.

5. On going through the order dated 28-1-2011 passed in SA No.19 of 2007, it is manifest that after hearing the learned counsel for all the parties and after considering all the aspects of the matter, this Court has delivered the judgment, which is sought to be reviewed herein. It is also worthwhile to mention here that against the judgment dated 28-1-2011 the defendant moved the Supreme Court by filing SLP bearing Special Leave to Appeal Civil

No.17929/2013, which was dismissed by the Supreme Court by its order dated 23-4-2013 affirming the judgment dated 28-1-2011 delivered by this Court in SA No.19 of 2007.

6. There is no other ground pointed out by the petitioners showing any manifest error on the record and have not further brought into the notice, any new facts, which could not be produced earlier despite diligent efforts made by the petitioners. It is well settled principles of law 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 of the Code of Civil Procedure.

7. It appears that the petitioners by presentation of this review petition seek an opportunity to argue the entire case afresh on merits under the garb of the review petition, which is not permissible and tenable in law.

8. It is well settled principle of law that under the garb of review petition, the petitioners should not be permitted to argue the entire case afresh, which would amount to convert the review petition into an appeal and the same is not sustainable in law. {See: Meera Bhanjan v. Smt. Nirmal Kumar Chowdhary, AIR 1995 SC 455, Lily Thomas etc. v. Union of India and others, AIR 2000 SC 1650, Ajit Kumar Rath v. State of Orissa and others, AIR 2000 SC 85, Government of T.N. & Others v. M. Ananchu Asari and others,

(2005) 2 SCC 332, and Kerla State Electricity Board v. Hitech Electrothermicism & Hydropower Ltd. and others, (2005) 6 SCC 651}.

9. As a sequel, the review petition, *sans substratum* is liable to be and is hereby dismissed.

Sd/-
Judge
(Prashant Kumar Mishra)

Gowri