

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURREVP No. 136 of 2019

- Mukesh Masih S/o Dashrath Masih Aged About 29 Years (Presently Aged About 31 Years) R/o Village - Fasterpur, Tahsil - Mungeli, Civil & Revenue District - Mungeli Chhattisgarh.

---- Petitioner

Versus

1. Rakesh Singh W/o Late Banmali Singh Aged About 63 Years (Presently Aged About - 65 Years) R/o Village - Nagopahari, Chauki - Fasterpur, Tahsil - Mungeli, Civil & Revenue District - Mungeli Chhattisgarh.
2. Press Victor Incharge, Crist Incharge C.N.I. Fasterpur, Through Anish Masih S/o Gidon Masih, Aged About - 37 Years, (Presently Aged About - 39 Years), R/o Village - Fasterpur, Tahsil - Mungeli, Civil & Revenue District Mungeli Chhattisgarh.
3. State of Chhattisgarh Through The District Collector Janjgir, Civil & Revenue District - Janjgir - Champa Chhattisgarh.

---- Respondents

Application for review of the Order dated 21.06.2019passed inSA No.623 of 2017By Circular in ChamberHon'ble Mr. Justice Prashant Kumar Mishra28.11.2019

1. 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.

2. The Review-Petitioner (in short “the petitioner”) seeks review order dated **21.06.2019** passed in **SA No.623/2017**, on the ground that the Defendant No.1 submitted the insufficient stamp papers and the Defendant No.2 has only filed his written statement and remained absent and hence he was proceeded *ex-parte*.
3. After going through the record of the memo of Second Appeal, it is manifest that after hearing the parties including the Review-Petitioner this Court decided the Second Appeal by giving sufficient and cogent reasons. It is also to be seen that the review petitioner/plaintiff's suit was concurrently dismissed by both the Courts below and thereafter, the Second Appeal has also been dismissed affirming the concurrent judgment and decree. The applicant has not pointed out any error apparent on the face of the record. The grounds urged are in the realm of questions of fact.
4. On consideration of the above-stated grounds, which are in the nature of taking liberty to re-argue the Second Appeal are unsustainable in the eyes of law. The petitioner cannot be allowed to commit a volte-face and take up new pleas in review petition.

5. There is no other ground pointed out by the petitioner showing any manifest error on the record and has not further brought into the notice, any new facts, which could not be produced earlier despite diligent efforts made by the petitioner. 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. Even in exercise of review jurisdiction by the High Court under Article 226 of the constitution, the petitioner has not produced any ground for review.
6. It appears that the petitioner by presentation of this review petition seeks 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.
7. It is well settled principle of law that under the garb of review petition, the petitioner 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 Electrothemicsm & Hydropower Ltd. And others, (2005) 6 SCC 651.

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

Sd/-
Prashant Kumar Mishra
Judge

Ankit