

from the Central Government was not necessary. Firstly, the contentions raised by the Petitioners are not found to be correct. However, even assuming that the Petitioners have restricted the mining activities to an area less than 5 hectares, the fact that authorisation is issued in respect of area of 9.73 hectares is not denied. There is no application tendered by the Petitioners seeking amendment in respect of area mentioned in the authorisation and as such it has to be presumed that the authorisation for mining is in respect of area more than 5 hectares which calls for environmental clearance from the Central Government. The contentions raised in the instant review petition were raised before the Hon'ble Apex Court while arguing the Special Leave Petition and those were not accepted. It is well settled principle that the application seeking review shall not be an appeal in disguise and the review application shall not be an attempt for hearing the matter again on merits. It would be appropriate to refer to following paragraphs of the judgment of the larger bench of this Court in *Suman Dattatraya Kadam vs. Shobha Kailas Bonekar & Ors.*, which reads as under:

“14. In the case of **Suman Dattatraya Kadam Vs. Shobha Kailas Bonekar & Ors., 2007(3) Bom. C.R. 518**, more particularly in paragraph 4 thereof, the Special Bench comprising of five learned Judges of this Court, in which one of us (R.M. Borde,J.) was a member, referred to the decision of Apex Court in **Aribam Tuleswar Sharma Vs. Ariban Pishak Sharma and Ors., A.I.R. 1979 S.C. 1047** dealing with the scope and ambit of power of the High Court while entertaining an application for review. The relevant portion reads thus :

“It is true that there is nothing in Article 226 of the Constitution to preclude the High Court from exercising the power of review which inhere in every Court of plenary jurisdiction to prevent miscarriage of justice or to correct grave and palpable errors committed by it. But there are definitive limits to the exercise of the power of review. The power of review may be exercised on the discovery of new and important matter or evidence which, after the exercise of due diligence was not within the knowledge of the person seeking the review or could not be produced by him at the time when the order was made; it may be exercised where some mistake or error apparent on the face of the record is found; it may also be exercised on any analogous ground. But, it may not be exercised on the ground that the decision was erroneous on merits. That would be the province of a Court of appeal. A power of review is not to be confused with appellate power which may enable an Appellate Side Court to correct all manner of errors committed by the Subordinate Court.”

15. In paragraph 5, the Special Bench referred to the decision of **Lily Thomas Vs. Union of India and Ors., A.I.R. 2000 S.C. 1650**, where the Apex Court was dealing with the powers of review in reference to Article 137 and under the Supreme Court Rules. The Special Bench extracted paragraphs 53 and 55 as under :

“It is well settled that a party is not entitled to seek review of a judgment delivered by this Court merely for the purpose of a rehearing and fresh decision of the case. Normal principle is that a judgment pronounced by the Court is final and departure from that principle is justified only when circumstances of a substantial and compelling character make it necessary to do so.”

“...But whatever the nature of the proceeding, it is beyond dispute that a review proceeding cannot

be equated with the original hearing of the case, and the finality of the judgment delivered by the Court will not be reconsidered except 'where a glaring omission or patent mistake or like grave error has crept in earlier by judicial fallibility.'

"It follows, therefore, that the power of review can be exercised for correction of a mistake and not to substitute a view. Such powers can be exercised within the limits of the statute dealing with the exercise of power. The review cannot be treated an appeal in disguise. The mere possibility of two views on the subject is not a ground for review."

16. In the case of **Kamlesh Verma Vs. Mayawati, AIR 2013 SC 3301**, the Apex Court has considered the scope of review and has observed thus :

"The jurisdiction and scope of review is not that of an appeal and it can be entertained only if there is an error apparent on the face of the record. An error which is not self evident and has to be detected by a process of reasoning can hardly be said to be an error apparent on the face of the record justifying the Court to exercise its power of review. A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected, but lies only for patent error. Error contemplated under the rule must be such which is apparent on the face of the record and not an error which has to be fished out and searched. It must be an error of inadvertence. The power of review can be exercised for correction of a mistake but not to substitute a view. The mere possibility of two views on the subject is not a ground for review. Review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of Order XLVII, Rule 1 of C.P.C. "

3] For the reasons recorded above, no interference is called for in the Petition seeking review of the judgment and order passed by the Division of this Court on 16th February, 2018.

4] Review Petition is devoid of substance and hence stands rejected.

(A. S. GADKARI, J.)

(R. M. BORDE, J.)