

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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RA-RS-24-2019 (O&M) in
RSA No.1472 of 2015

Date of decision: 11.03.2019

Jai Narain (since deceased) through Kiran Poonia Appellant

Versus

Sanjay Singh and others Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Munish Kapila, Advocate
for the applicant-appellant.

ANIL KSHETARPAL, J. (ORAL)

Learned counsel appearing for the review-applicant submits that the manner in which the regular second appeal was dismissed is erroneous as the Court failed to frame substantial questions of law. In the considered view of this Court, the argument of learned counsel is erroneous for the following reasons:-

1. The judgment passed by the Courts below has been upheld while dismissing the appeal at the admission stage finding that there is no substantial question of law involved.

2. A Constitutional Bench of the Hon'ble Supreme Court in the case of Pankajakshi (dead) through LRs and others Vs. Chandrika and others, 2016 (6) SCC 157 have declared that in the area governed by Punjab Courts Act which includes the States of Punjab and Haryana, regular second appeals are governed by Section 41 of the Punjab Courts Act and therefore, there is no necessity of framing substantial question of law. Learned counsel for the

review-applicant has submitted that the Constitutional Bench judgment passed by the Hon'ble Supreme Court in the case of Pankajakshi (Dead) through LRs and others (supra), has not laid down as a ratio decidendi to the effect that Section 100 of the Code of Civil Procedure would have no application in the area governed by Punjab Courts Act. It may be noted here that the Hon'ble Supreme Court while delivering the aforesaid judgment has specifically dealt with the aspect of applicability of Section 100 viz-a-viz Section 41 of the Punjab Courts Act. The Hon'ble Supreme Court has answered the question while reversing its previous judgment in the case of Kulwant Kaur and others Vs. Gurdial Singh Mann (Dead) by LRs and others, 2001(4) SCC 262. Hence, the declaration of law by the Supreme Court in such circumstances cannot be said to be only obiter. Hence, there is no ground to review.

Along with the application for review, certain additional documents by way of additional evidence are sought to be produced. The judgment is delivered on the basis of the documents which have been produced before the Courts below. In such circumstances, in absence of any error which is apparent from the record, no application for review is maintainable.

Hence, review application is dismissed.

No order is required to be passed in miscellaneous application (CM-3392-C-2019) for condoning the delay.

The pending miscellaneous application, if any, shall stand disposed of accordingly.

**(ANIL KSHETARPAL)
JUDGE**

11.03.2019
Dinesh Bansal

Whether speaking/reasoned
Whether Reportable

Yes / No
Yes / No