

**CM No.15737-CWP of 2019 and
RA-CW No.420 of 2019 in
CWP No.19943 of 2019**

Ranju Goyal and others vs. State of Punjab and others

**CM No.15780-CWP of 2019 and
RA-CW No.422 of 2019 in
CWP No.19978 of 2019**

Hargun Kaur Arora and others vs. State of Punjab and others

Present:- Dr. Rau P.S. Girwar, Advocate,
for the applicant-petitioners.

By this order of ours, two review applications bearing RA-CW Nos.420 and 422 of 2019 shall be disposed of as the facts and the law position involved are the same.

**CM No.15737-CWP of 2019 and
CM No.15580-CWP of 2019**

There is delay of 54 days in filing the review applications. The condonation of delay has been sought on the ground that certain documents were required and a lot of time was consumed in collecting those documents.

As per grounds mentioned in the applications, delay of 54 days in filing the review applications is condoned.

Applications stand disposed of.

**RA-CW No.420 of 2019 and
RA-CW No.422 of 2019**

The review applicants have approached this Court by way of filing the review applications under Order 47 Rule 1 CPC for review of order dated 23.07.2019 passed by this Court in CWP No.19943 of 2019 by relying upon judgment rendered by Hon'ble the Apex Court in *M/s*

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Karnataka State Forest Industries Corporation vs. M/s Indian Rocks (SC)

Law Finder Doc ID #173220, whereby, scope of Articles 226 and 14 of Constitution of India has been clarified.

Learned counsel for the review applicant-petitioners submits that the main case was dismissed without saying anything on merits of the case but by observing that the allotment price is a matter of contract and that the petitioners have purchased the plots after accepting the price offered by respondents, therefore, its responsibility cannot be opined whereas writ petition was maintainable as has been held in the above mentioned judgment rendered by Hon'ble the Apex Court.

Heard arguments of learned counsel for the review applicant-petitioners and we have also perused judgment dated 23.07.2019 passed in CWP No.19943 of 2019.

The judgment relied upon by learned counsel for the review applicant-petitioners is of the year 2008 and it could have been relied upon at the time of arguments but the same was not relied. The case was argued at length and merits of the case were also considered. Only on the basis of observation that allotment price is a matter of contract, it cannot be said that it was dismissed only on the issue of contract between the parties.

The review does not mean rehearing of the case as has been held in a number of judgments of this Court as well as of Hon'ble the Apex Court.

Same issue was there before the Division Bench of Himachal Pradesh High Court in ***Commissioner of Income Tax vs. H.P. State***

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Industrial Development Corpn. Ltd. & Connected matter, 2015(78) RCR (Civil) 737 wherein it was held that under the guise of review, parties are not entitled for re-hearing while exercising the powers of review as the review Court cannot sit in appeal over its own order.

Scope of judicial review had already been considered in **(i) M/s Harvel Agua India Pvt Ltd vs. State of HP & ors, Review Petition No.4084 of 2013 decided on 9.7.2014; (ii) K.P. Singh vs. High Court of HP & ors, Civil Review No.2 of 2012, decided on 12.11.2014 and recently in Rajinder & ors vs. Gokal Chand, review petition No.91/2015 decided on 12.8.2015** wherein after referring the case law, the Bench has culled out certain broad principles regarding maintainability/non-maintainability of review petition, which are as under:

“(A) When the review will be maintainable:-

(i) Discovery of new and important matter or evidence which, after the exercise of due diligence, was not within knowledge of the petitioner or could not be produced by him;

(ii) Mistake or error apparent on the face of the record’

(iii) Any other sufficient reason.

(B) When the review will not be maintainable:-

(i) A repetition of old and overruled argument is not enough to reopen concluded adjudications.

(ii) Minor mistakes of inconsequential import.

(iii) Review proceedings cannot be equated with the

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original hearing of the case.

(iv) Review is not maintainable unless the material error, manifest on the face of the order, undermines its soundness or results in miscarriage of justice.

(v) A review is by no means an appeal in disguise whereby an erroneous decision is re-heard and corrected but lies only for patent error.

(vi) The mere possibility of two views on the subject cannot be a ground for review.

(vii) The error apparent on the face of the record should not be an error which has to be fished out and searched.

(viii) The appreciation of evidence on record is fully within the domain of the appellate court, it cannot be permitted to be advanced in the review petition.

(ix) Review is not maintainable when the same relief sought at the time of arguing the main matter had been negative.

(x) Review is not maintainable on the basis of a subsequent decision/judgment of a coordinate or larger Bench of the Court or of a superior Court.

(xi) While considering an application for review, court must confine its adjudication with regard to the material which was available at the time of initial decision. The happening of some subsequent event or development

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cannot be taken note of for declaring the initial order/decision as vitiated by an error apparent.

(xii) Mere discovery of a new or important matter or evidence is not sufficient ground for review. The parties seeking review has also to show that such mater or evidence was not within its knowledge and even after exercise of due diligence, the same could not be produced before the Court earlier.”

In the present case also, the review has been sought by relying upon judgment rendered by Hon'ble the Apex Court but nothing has been shown as to whether there is any error apparent or merits of the case have not been discussed.

Thus, it can be said that the power of review cannot be exercised only on the ground that decision is incorrect or erroneous as it is within the ambit of appellate Court/higher Court to see. In case, there is any error committed by the subordinate Court/lower Court, then the higher Court/appellate Court is competent to correct the error by exercising the power of appeal.

The review applicant is not entitled for rehearing in the application moved for review. Moreover, learned counsel for the review applicant has failed to make out a case to review order dated 23.07.2019 by showing that order can be reviewed only by relying upon one Supreme Court judgment and by saying that it was not in the knowledge at the time of hearing of the case.

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Accordingly, we find no merit to interfere and the present review applications being devoid of any merit are hereby dismissed.

**(DAYA CHAUDHARY)
JUDGE**

**13.12.2019
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**(SUDHIR MITTAL)
JUDGE**