

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

REVP No.248 of 2019

1. Rai Singh, S/o Ram Singh, Aged About 42 Years

2. Vijay Singh, S/o Ramsingh, Aged About 33 Years

Both R/o Alirajpur, District Jhabua, Madhya Pradesh

3. Smt. Kalpana, W/o Bawalia, R/o Indore, Madhya Pradesh

Through Power of Attorney Holder Mohammad Hasan, S/o Shri Sheikh Sultan, R/o Baijnathpara, District Raipur (C.G.)

---- Petitioners

Versus

1. Smt. Alka Dhote, Wd/o Late Premji Rao Dhote, Aged About 60 Years

2. Lokesh Dhote, S/o Late Premji Rao Dhote, Aged About 40 Years

3. Tarun Dhote, S/o Late Premji Rao Dhote, Aged About 36 Years

4. Nishant Dhote S/o Late Premji Rao Dhote Aged About 32 Years

Respondent Nos.1 to 4 are R/o Nandi Chowk, Opp. Old Police Station, Tikrapara, Raipur, Chhattisgarh

(Respondents 1 to 4 are Legal Heirs Of Respondent No. 1 Premji Rao Dhote in F.A. No. 100 Of 2015, who has died after final hearing of the appeal and his legal heirs were not brought on record.), District : Raipur, Chhattisgarh

5. Nagar Palika Nigam, Raipur, Chhattisgarh Through Commissioner Nagar Palika Nigam, Raipur, Chhattisgarh

---- Respondents

Application for review of the judgment dated 20.06.2019 passed in FA

No.100 of 2015

By circulation in Chamber

D.B.: Hon'ble Justice Shri Prashant Kumar Mishra

Hon'ble Justice Smt. Vimla Singh Kapoor

07.02.2020

IA No.01

1. This is an application for condonation of delay in filing the review petition.
2. For the reasons mentioned in the application (IA No.01), the same is allowed and the delay of 108 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 seek review of the judgment dated 20.06.2019 passed by this Court in FA No.100/2015 on the ground that the registered power of attorney dated 18.04.2011 has been filed by the applicants later on, however, power of attorney executed by them in favour of Mohd Hasan in the year 2008 was filed along with the plaint. The defendant has not challenged the authenticity or execution of these documents, however, while delivering the judgment under review, this Court has ignored the documents.
5. On going through the record of the first appeal, it is manifest that after appreciating all the facts and circumstances of the case, in its true perspective, this Court dismissed the appeal observing that there being absolutely no evidence in favour of the plaintiffs to prove their title, the Trial Court has rightly dismissed the suit.

6. On consideration of the above-stated grounds, which are in the nature of taking liberty to re-argue the appeal, it appears, the same are not sustainable in the eyes of law.
7. 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. Even in exercise of review jurisdiction by the High Court under Article 226 of the Constitution, the petitioners have not produced any ground for review.
8. 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.
9. 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 Electrothermicsm &**

Hydropower Ltd. and others, (2005) 6 SCC 651).

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

Sd/-

(Prashant Kumar Mishra)
Judge

Sd/-

(Vimla Singh Kapoor)
Judge

Nirala