

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CM Nos.19615 &19616 of 2019 in
RA-CW No.562 of 2019 in
CWP No.12236 of 2017**

Date of decision: 24.01.2020

Jagir Singh and others

.... Petitioners

VS

Financial Commissioner (Appeals), Punjab and others

.... Respondent

**CORAM : HON'BLE MR. JUSTICE JASWANT SINGH
HON'BLE MR. JUSTICE ARUN KUMAR TYAGI**

Present : Mr. J.P. Bhatt, Advocate for the applicants/petitioners.

ARUN KUMAR TYAGI, J.

**CM No.19615 of 2019 in
RA-CW No.562 of 2019**

Present application has been filed under Section 5 of the Limitation Act, 1963 read with Section 151 of the Code of Civil Procedure, 1908 (for short 'the C.P.C.') for condonation of delay of 85 days in filing the review application.

For the reasons mentioned in the application, the same is allowed and delay of 85 days in filing the review application is allowed.

**CM No.19616 of 2019 in
RA-CW No.562 of 2019**

Prayer in the application filed under Section 151 of the C.P.C. is for placing on record judgment and annexures.

For the reasons mentioned in the application, the same is allowed and judgment and annexures are taken on record.

RA-CW No.562 of 2019 in
CWP No.12236 of 2017

The applicants/petitioners have filed present review application under Article 226 of the Constitution of India read with Order 47 Rule 1 and Section 151 of the C.P.C. for review of the order dated 19.07.2019 passed by this court in CWP No.12236 of 2017.

The petitioners filed CWP No.12236 of 2017 under Article 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing the impugned order dated 31.03.1995 passed by respondent No.3-Deputy Commissioner-cum-Collector, Kapurthala; order dated 20.05.1996 passed by respondent No.2-Commissioner, Jalandhar Division, Jalandhar and order dated 31.08.2016 passed by respondent No.1-Financial Commissioner (Appeals), Punjab whereby petitioners were evicted from land measuring 147 kanals 7 marlas. The said writ petition was dismissed by this Court vide order dated 19.07.2019 whereby respondent No.3-Deputy Commissioner-cum-Collector, Kapurthala was directed to initiate proceedings against the petitioner for recovery of the amount of Rs.10,50,000/- as mesne profits for illegal occupancy of the land in dispute.

The applicants/petitioners have filed the present review application on the ground that at the time of filing of the writ petition judgement passed by Hon'ble Supreme Court in ***Charan Singh and others Vs. State of Punjab and others: 1997(1) RLA 301*** was not in the knowledge of the petitioners and in spite of due diligence the same could not be placed on record of the writ petition. The petitioners have come to know about the same from the Internet. The case of the petitioners is squarely covered by the above

said judgement. Therefore, the order dated 19.07.2019 may be reviewed and a writ petition filed by the petitioners may be allowed.

We have heard learned Counsel of the applicants/petitioners and gone through the relevant record. We have also perused the judgment passed in the main writ petition as well as the averments made in the review application.

Learned Counsel for the applicants/petitioners submits that at the time of filing of the writ petition they were not aware of the observations made by Hon'ble Supreme Court in ***Charan Singh and others Vs. State of Punjab and others : 1997(1) RLA 301***. The petitioners have come to know about the same from internet and have placed the same on record for the just and proper disposal of this case as the case of the applicants/petitioners is covered by this judgment of Hon'ble Supreme Court. Therefore, the order dated 19.07.2019 may be reviewed and the writ petition may be allowed.

Order 47, Rule 1(1) of the C.P.C. provides for an application for review which reads as under:

"Any person considering himself aggrieved -

- a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred,*
- b) by a decree or order from which no appeal is allowed, or*
- c) by a decision on a reference from a Court of Small Causes, and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may*

apply for a review of judgment to the court which passed the decree or made the order."

In ***Kamlesh Verma Vs. Mayawati (SC) : 2013 (4) R.C.R. (Civil)***

75 Hon'ble Supreme Court observed as under :-

"15. 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 CPC. In review jurisdiction, mere disagreement with the view of the judgment cannot be the ground for invoking the same. As long as the point is already dealt with and answered, the parties are not entitled to challenge the impugned judgment in the guise that an alternative view is possible under the review jurisdiction.

Summary of the Principles :

16. Thus, in view of the above, the following grounds of review are maintainable as stipulated by the statute :

(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.*

*The words "any other sufficient reason" has been interpreted in **Chhajju Ram v. Neki, AIR 1922 PC 112** and approved by this Court in **Moran Mar Basselios Catholicos v. Most Rev. Mar Poulose Athanasius & Ors., (1955)1 SCR 520**, to mean "a reason sufficient on grounds at least analogous to those specified in the rule". The same principles have been reiterated in **Union of India v. Sandur Manganese & Iron Ores Ltd. & Ors., 2013(3) Recent Apex Judgments (R.A.J.) 436 : JT 2013(8) SC 275.***

(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 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 negated.”*

In the present case, the pleas taken in the writ petition and submissions made at the time of hearing were deliberated upon and decided by our judgment dated 19.07.2019 whereby the writ petition was dismissed. The petitioners are not entitled to challenge the same on the ground that an alternative view is possible under the review jurisdiction in view of judgment of Hon'ble Supreme Court in ***Charan Singh and others Vs. State of Punjab and others : 1997(1) RLA 301***. Review proceedings are not by way of an appeal in disguise whereby an erroneous decision is re-heard and corrected, but have to be strictly confined to the scope and ambit of Order 47 Rule 1 of C.P.C. In the present case there is no such discovery of new and important matter or evidence which was not within knowledge of the petitioners or could not be produced by them after the exercise of due diligence; there is no mistake or error apparent on the face of the record and there is no other sufficient analogous reason for review of the judgment dated 19.07.2019. In review jurisdiction, mere disagreement with the view of the judgment and plausibility of an alternative view on the basis of a judicial precedent under

different scheme/statutory provisions cannot be the ground for invoking the same.

In these facts and circumstances, no ground is made out for review of judgment dated 19.07.2019 and the present review application is accordingly dismissed.

**(JASWANT SINGH)
JUDGE**

**(ARUN KUMAR TYAGI)
JUDGE**

24.01.2020

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No