

**RA-CW No.6 of 2020 in
CWP No.29301 of 2019**

Amrik Singh vs. Union Territory, Chandigarh and others

Present:- Mr. Kanwaljit Singh, Sr. Advocate with
Ms. Shazia K. Singh, Advocate
for the review applicant-petitioner.

Review applicant-petitioner-Amrik Singh filed CWP No.29301 of 2019 with the prayer that the respondents be directed to hand over the possession of House No.1136, Sector-21-B, Chandigarh, which was dismissed vide order dated 02.11.2019 by passing a detailed order.

Now the review application has been filed under Order 47 Rule 1 and 2 read with Section 151 CPC for review of order dated 02.11.2019 only on the ground that the petitioner is an old person of 93/94 years and he argued his case himself but has not argued on certain points at the time of arguing the main case. The revised building plan was already submitted on 10.01.2016. Applicant undertakes to remove all the building violations within a period of three months. It has also been argued that the resumption order was passed on account of few building violations as has been pointed out by the revisional authority.

Learned senior counsel for the review applicant-petitioner submits that the house in dispute was purchased in the year 1985 and total 13 building violations were pointed out. Most of the violations were sanctionable through revised building plan and the applicant undertakes to remove all the violations within a period of three months. Learned senior counsel further submits that a few violations are non-sanctionable and the same are required to be set at right as pointed out by the revisional

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authority. The petitioner while appearing in person was suffering from old age ailments and he could not put up his case in a proper manner.

Heard arguments of learned senior counsel for the review applicant-petitioner and we have also perused order dated 02.11.2019 passed in CWP No.29301 of 2019.

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.

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:-

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- (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 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.*

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(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 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, 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 02.11.2019.

Accordingly, we find no merit to interfere in view of facts and

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finding recorded in order dated 02.11.2019 and the present review application being devoid of any merit is hereby dismissed.

**(DAYA CHAUDHARY)
JUDGE**

**17.01.2020
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**(SUDHIR MITTAL)
JUDGE**