

HIGH COURT OF CHHATTISGARH, BILASPUR**REVP No. 264 of 2018**

M/s Prakash & Company, A Registered Partnership Firm, Registered Under Indian Partnership Act, 1932, Carrying On Business Of Timber Merchants And Order Suppliers With Its Principal Place Of Business At Indira Ward, Jagdalpur, District Bastar And Branch At Purushothapuram, P.O. Chinnishiwada, Visakhapatnam (Andhra Pradesh)

---- **Petitioner**

Versus

M/s Mohan Singh Sohan Singh, Through Sohan Singh, S/o. Sadhu Singh, Aged About 62 Years, Timber Merchant, Saifabadi Gate, Patiyala (Punjab)

---- **Respondent**

For Petitioner	:	Mr. B.P.Sharma with Ms. Trishna Das, Advocates
For Respondent	:	Mr. Saket Pandey, Advocate on behalf of Mr. Anup Majumdar, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order On Board**

04.03.2021

Heard.

1. The review petition has been filed against the judgment and decree dated 22.10.2018 passed in First Appeal No.244 of 1999.
2. Learned counsel for the petitioner would submit that the fact would suggest that the suit was filed in the year 1995 and the decree was passed on 17.02.1999. This Court while passing the decree was to examine the legality of decree as to whether the judgment and decree of the Court below is correct or not? He would submit that apparent mistake appeared on the judgment for the reason that Para 13-A of the plaint which was amended it was wrongly considered that certain amount was paid, whereas it was a condition that in case the amount of decree passed by the Railway Claims Tribunal is paid then in such case the same amount would be adjusted in further recovery. He would submit with

respect to the judgment, Para 4 of the relief clause of the judgment of the Court below would show it has clarified the fact that any recovery made by the Railway Claims Tribunal would be adjusted. It is stated the recovery of money was to be a condition and was not a paid amount. Therefore, the judgment and decree which records here about the admission of amount on the basis of the railway receipt, the calculation would be wrong and the adjustment could only be made after the amount is received. He relies on the (2005) 3 SCC 427.

3. Per contra, learned counsel for the respondent would submit that in apparent the submission made by the petitioner touches about merits and there is no apparent wrong on the judgment. He relies on the judgment passed on 03.11.2020 in Civil Appeal No.3601 of 2020 by the Supreme Court and would submit that the review proceedings are not by way of an appeal and it has to be strictly complied by this Court under Order 47 Rule 1 of CPC.
4. I have heard learned counsel appearing for the parties and go through the judgment and decree.
5. The Supreme Court in the recent judgment passed on 03.11.2020 in Civil Appeal No.3601 of 2020 in case of *Shri Ram Sahu (Dead) Through LRs v. Vinod Kumar Rawat & Ors.* has laid down that the judgment should be open to review inter alia if there is a mistake is apparent on the face of the record. An error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of the record justifying the court to exercise its power of review under Order 47 Rule 1 CPC. In exercise of the jurisdiction under Order 47 Rule 1 CPC it is not permissible for an erroneous decision to be 'reheard and corrected'. It further held that there is a clear distinction between an erroneous decision and an error apparent on the face of the record. While the first can be corrected by the higher forum, the latter only can be

corrected by exercise of the review jurisdiction. A review petition has a limited purpose and cannot be allowed to be 'an appeal in disguise'.

6. Applying the aforesaid principles and after going through the judgment dated 22.10.2018 to unsettle the order, almost re-hearing would be required in guise of appeal. In facts of the case, I am not inclined to entertain this petition for review. Accordingly, it is dismissed.

Sd/-
(Goutam Bhaduri)
Judge

Aks