

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

**CM-11527-CWP-2021 in/and
RA-CW-191-2021 in
CWP-15977- 2015
Date of decision: 08.11.2021**

Satyavir Singh

.... Applicant/Petitioner

VS

State of Haryana and others

.... Respondents

**CORAM : HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE ASHOK KUMAR VERMA**

**Present : Mr. Vijay Sharma, Advocate and
Mr. S.S. Shekawat, Advocate for the review petitioner.**

ASHOK KUMAR VERMA, J.

CM-11527-CWP-2021

Present application has been filed under Section 151 of the Code of Civil Procedure, 1908 (for short “CPC”) for condonation of delay of 67 days in filing the review application which is supported by an affidavit.

For the reasons mentioned in the application, the same is allowed and delay of 67 days in filing the review application is condoned.

RA-CW-191-2021

The petitioner has filed the present review application under Order 47 Rule 1 read with Section 114 of the C.P.C. for review and recall of the order dated 06.03.2020 passed by this court in CWP No.15977 of 2015.

The petitioner had filed the aforesaid civil writ petition for quashing the impugned order dated 23.01.2013 passed by respondent

No.3-Assistant Collector 1st Grade-cum-SDO(C), Bhiwani, District Bhiwani and order dated 22.04.2015 passed by respondent No.2-Commissioner, Hisar Division, District Hisar. The said writ petition was dismissed by this Court vide order dated 06.03.2020.

The petitioner has filed the present review application on the ground that the material issues raised in the civil writ petition and substantial questions of law involved have not been considered by this Court at the time of passing of judgment dated 06.03.2020 and as such the judgment dated 06.03.2020 requires to be reviewed.

We have heard learned Counsel of the applicant/petitioner and gone through the paper-book.

We are not impressed with the submissions of the learned counsel for the review petitioner. Under writ rules, no separate procedure has been prescribed for review of the Orders of this Court. Therefore, the procedure as contemplated under the CPC has to be followed. As such the review petition itself is filed under Order 47 Rule 1 read with Section 114 of the CPC, which reads as under:-

“Order 47:

1. Application for review of judgment

(1) *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."

A bare reading of the aforesaid provisions clearly indicate that the review is required to be conformed to the grounds mentioned therein. We find that the present review petition itself is not maintainable on the ground that it lacks the requirements stipulated for entertaining the review petition under Order 47 Rule 1 of the CPC. Under Rule 47 Rule 1 Civil Procedure Code, a judgment is open to review inter alia, when there is a error/mistake apparent on the face of the record. It is settled proposition of law that in exercise of the jurisdiction under Order 47, Rule 1 C.P.C, it is not permissible for an erroneous decision to be "re-opened and reheard on merits" again. There is a clear distinction between "an erroneous decision" and "an error apparent" on the face of the record. While the former can be corrected by the higher court and the latter only can be corrected, in exercise of the review jurisdiction. A review petition has a limited purpose and cannot be allowed to be "an appeal in disguise".

In the present case, the pleadings taken in the writ petition and the submissions made at the time of hearing were deliberated upon and decided by this Court vide judgment dated 06.03.2020 whereby the civil writ petition was dismissed. Now review petition has been filed on the ground that some material issues which were argued, were not

considered. To argue same details as a question of fact in second inning of the matter under the garb of review cannot be permitted and as such it is not permissible to challenge the judgment under review on the ground that material issues raised and substantial questions of law involved in the civil writ petition had not been considered by this Court at the time of passing of judgment dated 06.03.2020. Power of review is very limited and has to be strictly confined to the scope and ambit of Order 47 Rule 1 of C.P.C. Review of the aforesaid judgment cannot be permitted, as it would amount to re-open the entire matter, which is not permissible in exercise of power of review under Order 47 Rule 1 of the CPC. The petitioner has totally failed to show that either there is any mistake or error apparent on the face of the record while passing the judgment under review or there is any such discovery of new and important substantial fact(s) or evidence which was not within knowledge of the petitioner or could not be produced by him after the exercise of due diligence. In this view of the matter, we are of the considered opinion that there is no sufficient reason for review of the judgment dated 06.03.2020 passed in CWP No.15977 of 2015.

Accordingly, the present review application is dismissed.

(ASHOK KUMAR VERMA) (AUGUSTINE GEORGE MASIH)
JUDGE JUDGE

08.11.2021
MFK

Whether speaking/reasoned : Yes

Whether reportable : No