

131-132
24.06.2022
TN

RVW 130 of 2021
With
WPA No.1447 of 2020

Champa Nandi
(Prop. of M/s. Industrial Handling)
Vs.
State of West Bengal and others

Mr. Tapas Dutta

.... for the petitioner

Mr. Subhabrata Datta,
Mr. Benazir Ahmed

....for the State

Mr. S.K. Gupta,
Mr. Rathin Santra

....for the private respondent no.10

Learned counsel for the petitioner submits that the order dated April 07, 2021 passed in WPA No.1447 of 2020 suffers from an error apparent on the face of record.

In the said order, the court observed, while disposing of the writ petition, that the petitioner was granted liberty to approach the concerned Magistrate in Orissa and/or the High Court of Orissa for ventilating any further grievances which the petitioner may have regarding the efforts of the police authorities

of Orissa to arrest the absconder, namely, Partha Sarathi Biswal.

Learned counsel places reliance on a judgment of the Supreme Court reported at (2000) 1 SCC 666 [*M.M. Thomas vs. State of Kerala and another*], in support of the proposition that the High Court, as a court of record, as envisaged in Article 215 of the Constitution, must have inherent powers to correct the records. A court of record envelops all such powers whose acts and proceedings are to be enrolled in a perpetual memorial and testimony. A court of record, the Supreme Court held, is undoubtedly a superior court which is itself competent to determine the scope of its jurisdiction. The Supreme Court went on to say that the High Court, as a court of record, has a duty to itself to keep all its records correctly and in accordance with law. Hence, if any apparent error is noticed by the High Court in respect of any orders passed by it the High Court has not only power, but a duty to correct it. The High Court's power in that regard was held to be plenary by the Supreme Court.

Learned counsel further places reliance on a judgment reported at (2020) 10 SCC 766 [*Shanti Devi alias Shanti Mishra vs. Union of India and others*]. It is submitted that the whole cause of action for the grievance raised in the writ petition of the petitioner

lay within the territorial jurisdiction of the Calcutta High Court and, as such, this court ought to have entertained the writ petition and decided it on its merits instead of relegating the petitioner to the court of Magistrate in Orissa and/or the High Court of Orissa for ventilating any further grievance.

Learned counsel also places reliance on the judgment of *Board of Control for Cricket in India and another vs. Netaji Cricket Club and others*, reported at (2005) 4 SCC 741, for impressing upon the court that, as held by the Supreme Court, a mistake on the part of the court which would include a mistake in the nature of the undertaking may also call for a review of the order. It was further held in the said judgment that an application for review would also be maintainable if there exists sufficient reason therefor. What would constitute sufficient reason would depend on the facts and circumstances of the case. The Supreme Court further held that the words “sufficient reason” in Order XLVII Rule 1 of the Code are wide enough to include a misconception of fact or law by a court or even an advocate. An application for review may be necessitated, it was observed, by way of invoking the doctrine “*actus curiae neminem gravabit*”.

Upon hearing learned counsel for the parties, it is evident that it cannot be said that there is an “error

apparent on the face of the record” or any other sufficient reason for review of the order, as contemplated within the purview of either Order XLVII of the Code of Civil Procedure or Article 215 of the Constitution of India. Undoubtedly, as held by the Supreme Court, a mistake on the part of the court would definitely call for a review, which also includes a misconception of facts or law by a court or even an advocate; however, to label even an ordinary error of law as a “misconception” sufficient to satisfy the yardstick of review, “error apparent on the face of the record”, would only be under extreme circumstances.

Even if it is assumed that an arguable case on law is sought to be made out by the review applicant in connection with the review petition, the said error of law is amenable to challenge before an appropriate appellate forum and cannot be the subject-matter of review.

Moreover, since arguments are to be advanced and citations as well as materials on record ought to be entered into and assessed to substantiate the errors of law contended, such error, even if any, would not come within the ambit of “error apparent on the face of record”,

Hence, even upon considering the effect and impact of the judgments of the Supreme Court as

cited by learned counsel for the review applicant, upon hearing learned counsel for the parties, it does not appear that any apparent error on the face of the record and/or discovery of new matter have occurred in the present case to necessitate or justify a review of the order dated April 07, 2021 passed in W.P.A No. 1447 of 2020.

Hence, in the light of the discussions above, RVW 130 of 2021 is dismissed on contest without, however, any order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)