

ORDER SHEET

RVWO/18/2022
IA No. GA/1/2022

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

SWAPAN KUMAR DEY
-VS-
STATE OF WEST BENGAL AND ORS

BEFORE:

The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA

Date : September 13, 2022.

Appearance:

Mr. S.N. Mukherjee, Adv.

Sk. Samim Akhter, Adv.

... for the petitioner

Mr. Amal Kumar Sen, Adv.

Mr. Lal Mohan Basu, Adv.

... for the State

The Court: Learned counsel for the petitioner submits that the order dated May 2, 2022 passed in WPO/1065/2015 suffers from error apparent on the face of the record. It is contended that while deciding the fate of the second application for issuance of permit made by the petitioner, it was never considered by the Court that there was a prior application of similar tune dated May 30, 2007 which was kept pending by the authorities all along. It is submitted that in the absence of any direction in respect of the prior application, the order under review is palpably vitiated by an error apparent on the face of the record.

Learned counsel appearing for the State submits that the yardsticks stipulated repeatedly by the Hon'ble Supreme Court and this Court for granting review are not satisfied in the present case.

In this context, learned counsel cites *Parsion Devi and Others vs. Sumitri Devi and Others* reported at (1997) 8 SCC 715. The Supreme Court in the said judgment, *inter alia*, observed that under Order 47 Rule 1 of the Code of Civil Procedure a judgment may be open to review, *inter alia*, if there is a mistake or an error 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 of the Code of Civil Procedure. In exercise of the review jurisdiction it is not permissible for an erroneous decision to be “reheard and corrected”. The Supreme Court further held that a review petition, it must be remembered, has a limited purpose and cannot be allowed to be “an appeal in disguise”.

In the present case, the arguments made by the writ petitioner are being advanced for the first time. Neither in the writ petition, in connection with which the order under review was passed, nor the contention of the learned counsel for the petitioner at the relevant juncture shows that any relief whatsoever was prayed in respect of any prior pending application dated May 30, 2007.

Hence, the present review application typically comes within the periphery of the applications which are basically applications for rehearing and correction, as depicted by the Supreme Court in the cited judgment.

That apart, it is pointed out by learned counsel for the State that on the previous occasion when the matter came up before a Co-ordinate Bench, the petitioner’s counsel clearly submitted that the petitioner’s fresh application (which is the second application adjudicated in the order under review) be considered by the authorities. As such, at this juncture, long

after the order is passed, it does not lie in the mouth of the petitioner to cite the alleged pendency of a previous application, that too, in similar tune with the one which was rejected by the authorities, as a ground for recalling and setting aside the order under review.

The parameters and tests of Order 47 Rule 1 of the Code of Civil Procedure are equally applicable in the present case. Since none of the yardsticks mentioned therein have been satisfied in the present case, there is no scope of entertaining or allowing the present review application. Accordingly, RVWO/18/2022 is dismissed without any order as to costs.

(SABYASACHI BHATTACHARYYA, J.)