

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

REVIEW APPLICATION (CIVIL) NO.238 OF 2023
IN WP/3344/2019

Narayan Gopal Kapase

Applicant

Versus

State Of Maharashtra Through Honble
Minister Revenue And Others

Respondents

Mr. G.B. Kingre, Advocate for the applicant.

Mr. P.G. Borade, AGP for State.

Mr. S.K. Chavan, Advocate for respondent No. 8 and 9.

Adv. S. K. Chavan For R And 9, Gp For R/1 To 4, Adv. M. R.

Sonawane For R/6,13 To 15

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 25th AUGUST, 2023

ORDER :

1. This application is filed seeking review of the order passed by this Court on 16.09.2022.

2. It is necessary to note that the writ petition was argued by another advocate on behalf of the applicants – petitioner in the writ petition and the present review application is filed through another advocate.

3. In "*T. N. Electricity Board and Another V/s V. N. Raju Reddiar and Another*" AIR 1997 SC 1005, the Apex Court has deprecated this practice. The Apex Court has held that -

“When an appeal / special leave petition is dismissed, except, in rare cases where error of law or fact is apparent on the record, no review can be filed, that to by the advocate on record who neither appeared nor was party in the main case, it is salutary to note that Court spends valuable time in deciding a case. Review petition is not, and should not be, an attempt for hearing the matter again on merits. Unfortunately, it has become, in recent time, a practice to file such review petitions as a routine; that too, with change of counsel, without obtaining consent of the advocate on record at earlier stage. This is not conducive to healthy practice of the Bar which has the responsibility to maintain the salutary practice of profession.”

4. The grounds raised in the present application were argued by then advocate of the applicant, at the time of arguing the writ petition. They were considered and negated by this Court. This Court has passed the order after hearing the parties and after considering the respective submissions and record.

5. No ground, provided under Order 47, Rule 1 of the Civil Procedure Code, is made out by the applicant, in the review petition. In ***“Kamlesh Verma Vs. Mayawati and Others”*** reported in ***(2013) 8 SCC 320*** , it is held:

“19. Review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of Order 47 Rule 1 CPC. In review jurisdiction, mere disagreement with the view of the judgment cannot be the ground for invoking the same. As long as the point is

already dealt with and answered, the parties are not entitled to challenge the impugned judgment in the guise that an alternative view is possible under the review jurisdiction.”

6. The applicant has failed to point out any error apparent on the face of record, which has resulted into miscarriage of justice, hence, this Court is not inclined to exercise review jurisdiction. In **"State of West Bengal and Others Vs. Kamal Sengupta and Another"** reported in **(2008) 8 SCC 612** the Supreme Court has observed;

“22. The term “mistake or error apparent” by its very connotation signifies an error which is evident per se from the record of the case and does not require detailed examination, scrutiny and elucidation either of the facts or the legal position. If an error is not self-evident and detection thereof requires long debate and process of reasoning, it cannot be treated as an error apparent on the face of record for the purpose of Order 47 Rule 1 CPC or Section 22(3)(f) of the Act. To put it differently an order or decision or judgment cannot be corrected merely because it is erroneous in law or on the ground that a different view could have been taken by the court-tribunal on a point of fact or law. In any case, while exercising the power of review, the court/tribunal concerned cannot sit in appeal over its judgment/decision.”

7. In the present case, the order under review cannot be corrected on the ground that different view could have been taken by the Court on the point of fact or law and this Court cannot sit in appeal over its own judgment while exercising

review jurisdiction. No case is made out by the applicant for review. Application being devoid of merit is dismissed.

[NITIN B. SURYAWANSHI, J.]