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

**RA-CW-216-2020
IN CWP-9275-2019
Date of decision:10.02.2023**

SHAKTI SINGH

...Applicant

Versus

STATE OF HARYANA AND OTHERS

...Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLR MR. JUSTICE ASHOK KUMAR VERMA**

Present: Mr. B.S. Rana, Senior Advocate with
Mr. Navyadeep Rana, Advocate
for the applicant-petitioner.

Mr. Aman Bahri, Additional A.G., Haryana.

Mr. Dinesh Babu Khurana, Advocates
for respondent No.5.

SURESHWAR THAKUR, J. (ORAL)

1. One Shakti Singh instituted CWP-9275-2019 against:
 - i) State of Haryana through its Principal Secretary cum Financial Commissioner (Revenue), Haryana Civil Secretariat, Chandigarh.
 - ii) The Deputy Commissioner cum District Magistrate, Karnal.
 - iii) The Sub Divisional Magistrate, Karnal.
 - iv) Block Development and Panchayat Officer, Karnal.
 - v) Gram Panchayat Uncha Samana, Tehsil & District Karnail through its Sarpanch Nishant Rana son of Rajinder Rana, Village Uncha Samana, Tehsil & District Karnal.

In the above stated writ petition, the petitioner asked for the making
of a mandamus upon the respondents concerned, for not changing the nature of

the land falling in rectangle No.51 Killa No.88(20-4). The pointed grievance, as became agitated in the writ petition (supra), squarely appertained to, despite Annexure P-1 appended to the writ petition, displaying qua a *Gair Mumkin Johar* existing on the lands concerned, yet the same becoming being made a part of the utilization plan. Therefore, the said utilization plan, became averred to purportedly cause unlawful change of user of the *Gair Mumkin* pond, rather to some other activity. This Court through an order made thereon on 27.02.2020 had, after bearing in mind the affidavit filed before this Court by the BDPO Karnal on 08.11.2019, and, with its containing the hereinafter extracted averments, rather did not proceed to grant the asked for mandamus to the petitioner. The petitioner has through the instant review application, asked for a review being made of the order (supra), as made by this Court.

“11. That the pond will have semi peripheral street (Annexure R4/7). This street is approximately 4 acres in length.

a. One acre length of the street fills under killa No.51//4, which is the land of panchayat and earlier seems to be under encroachment.

b. Once acre length of the street falls under killa No.40//24, which is the land of panchayat and earlier seems to be under encroachment.

c. Once acre length of the street, in continuation of the above two acres is on the banks of the pond under killa number 0//88 of the pond.

d. Another one acre length of the curved street is in continuation of the above three acres is on the banks of the pond under killa number 0//88 of the pond.

15. That the street will be approximately 20 feet wide. There will a partitioned area for installation of solar lights, street lights, growing of trees, sewerage lines for outlet of village dirty water and dividers for parking of vehicles etc., which would also be approximately 20 feet in width.”

2. Initially the exercise of review jurisdiction by this Court, is extremely limited, and, unless there is proven material on record suggestive, that there is an error apparent on the face of the record, as, comprised in the apposite records, inasmuch as, the documents appended with the writ petition (supra), despite revealing projections but which ultimately may have constrained the Court concerned, to take a view other than the one which was adopted, yet such documents, becoming completely overlooked or not being assigned the relevant credence, thereupon alone the review jurisdiction being well amenable to hence become well exercisable.

3. Therefore, in case the above error apparent on the face of record of the verdict strived to be reviewed, through the apposite review application, but though, is apparently not forthcoming rather before the Reviewing Court concerned, thereupon yet the Reviewing Court yet taking to yet make an untenable re-appreciation of the records, and, also of the documents as become appended therewith, rather would then be undertakings of an impermissible exercise of re-writing the verdict which became earlier drawn by the Court concerned. The above re-writing of a verdict by the Reviewing Court, is impermissible, rather the remedy for making a challenge to the purported mis-appreciation or non appreciation(s) of the records, and, to the conclusions as made thereons by the Court concerned, is not, through the seekings of any review thereof, but is rather through a challenge being made, to the said verdict by the aggrieved therefrom, before the Hon'ble Apex Court.

4. However, yet the learned counsel for the application, has chosen to motion, this Court through the instant review application. The arguments as made, for the asking of the review of the verdict (supra), as made by this Court, is centered, upon the fact that there was on the records of the writ petition, hence

Annexure P-1, revealing that in the lands concerned, rather existing a *Gair Mumkin* pond, and, that no adequate appreciation thereof, was earlier made by this Court, whereas, in case credence became assigned thereto, a view in favour of the application may have hence emerged. However, the above made argument before this Court by the learned counsel for the applicant, is completely frail, as a reading of the verdict, does reveal, that there was the deepest application of mind to the above aspect. The above keenest objective application of mind, ensued after this Court believing the averments made on affidavit by the BDPO Karnal, and, which contained the above extracted echoings, whereupon this Court, came to a conclusion, that there was no likelihood of any unlawful change of user being caused to the *Gair Mumkin* pond, as existing upon the petition lands, rather there was an earnest effort on the part of the authorities concerned, to beautify the area concerned. If so, it cannot be, at this stage, be ably argued by the learned counsel, for the applicant that, there was any inapt non-assigning of any credence to Annexure P-1 by the Court which has passed the judgment (supra), nor hence is there any error apparent on the face of the records of the judgment (supra).

5. If so, in consequence, what the applicant is yet asking to be done by this Court, is to re-write the entire judgment, which was rather written, after a keen of consideration of all the material, and, also after bearing in mind the fact, that the exercise undertaken by the authorities concerned, was only for beautification of the area outside the *Gair Mumkin* pond, and that it was not for changing the very nature of the *Gair Mumkin* pond(s), nor was to in any way beget any untenable change qua its nature or of the purpose, for which it was meant.

6. Moreover, it also appears that the applicant herein, is canvassing various remedies before multiple forums, and, in all those forums, he has centered his onslaught against the Gram Panchayat concerned, on various grounds inclusive of the fact, that the dimensions of the *Gair Mumkin* pond, as were reflected in Annexure P-1 have been changed, after the order made by this Court, on 27.02.2020. If so, the appropriate stage for the applicant to protest against the affidavit, which was believed earlier by this Court rather was at the stage concerned. However, at the said stage no vehement protest (*supra*) became raised. Even if that protest, did then emerge, yet it was a disputed question of fact and, it was not amenable to be tried in writ proceedings, but was amenable to be tried in the proceedings drawn in some other forum, where issues in respect thereof became struck on the contested pleadings, and, also evidence became adduced. However, neither the above protest was vehemently raised in respect of the affidavit sworn by the BDPO concerned, and whose averments became the pedestal for this Court, declining the relief to the writ petitioner, nor the best evidence became adduced, to support the said arguments, thus obviously aptly earlier, no credence thereto became assigned by this Court.

7. In summa, this Court finds no merit in the instant review application, and, as such the same is dismissed.

8. No order as to costs.

(SURESHWAR THAKUR)
JUDGE

10.02.2023

Ithlesh

(ASHOK KUMAR VERMA)
JUDGE

Whether speaking/reasoned:-	Yes/No
Whether reportable:	Yes/No