

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

RA-RS-105-2019 (O&M)

IN RSA-1147-1989

Date of Decision : 08.02.2023

Sukhbir Singh and Others

....Appellants

VERSUS

Mewa (since deceased) through LR's.

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Dr. Anmol Rattan Sidhu, Sr. Advocate with
Mr. Parunjeet Singh, Advocate for applicants.

Mr. Amit Jain, Sr. Advocate with
Mr. Chetan Salathia, Advocate for the non-applicants.

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ALKA SARIN, J. (Oral)

CM-1022-C-2023

This is an application for preponment of the date of hearing of the review application from 20.04.2023 to an early date.

Learned Senior counsel appearing on behalf of the non-applicant/respondents states that he has no objection if the application is allowed and the date of hearing in the review application is preponed.

In view of the above, the present application is allowed and with the consent of both the counsel, the review application i.e **RA-RS-105-2019** alongwith the connected cases is taken on Board today itself for hearing.

RA-RS-105-2019

Learned Senior counsel appearing on behalf of the applicants

has contended that the judgment dated 29.05.2019 passed by this Court is

bad in law in view of the fact that the civil suit was under Section 13 of the Punjab Pre-emption Act, 1913 and would be bad for partial pre-emption and since Randhir Singh, one of the original plaintiffs, was non-suited, the other plaintiffs, who are brothers in a joint Hindu family, would also have to be necessarily non-suited on the same ground.

Per contra, the learned senior counsel appearing on behalf of the non-applicants states that in the garb of the present review application the applicant is seeking to re-argue the case on merits, which cannot be permitted in law. It was submitted that a review would lie only if there is a mistake or an error apparent on the face of the record which, in the present case, is none. Learned counsel has relied upon a judgment of the Supreme Court passed in **S. Madhusudhan Reddy Versus V. Narayana Reddy & Ors. [2022(4) RCR (Civil) 36]**.

Heard.

The grounds for review raised in the present application are all on the merits of the case. In the garb of the present review application the counsel for the applicant is attempting to re-argue the case on merits, which is not the scope of a review application. In the case of **S.Madhusudhan Reddy (supra)** it has been held as under :

“26. As can be seen from the above exposition of law, it has been consistently held by this Court in several judicial pronouncements that the Court's jurisdiction of review, is not the same as that of an appeal. A judgment can be open to review if there is a mistake or an error apparent on the face of the record, but an error that has

*to be detected by a process of reasoning, cannot be described as an error apparent on the face of the record for the Court to exercise its powers of review under Order XLVII Rule 1 CPC. In the guise of exercising powers of review, the Court can correct a mistake but not substitute the view taken earlier merely because there is a possibility of taking two views in a matter. A judgment may also be open to review when any new or important matter of evidence has emerged after passing of the judgment, subject to the condition that such evidence was not within the knowledge of the party seeking review or could not be produced by it when the order was made despite undertaking an exercise of due diligence. There is a clear distinction between an erroneous decision as against an error apparent on the face of the record. An erroneous decision can be corrected by the Superior Court, however an error apparent on the face of the record can only be corrected by exercising review jurisdiction. Yet another circumstance referred to in Order XLVII Rule 1 for reviewing a judgment has been described as "for any other sufficient reason". The said phrase has been explained to mean "a reason sufficient on grounds, at least analogous to those specified in the rule" (Refer: *Chajju Ram v. Neki Ram and Moran Mar Basselios**

*Catholicos and Anr. v. Most Rev. Mar Poulouse
Athanasius and Others).*”

In view of the above, the present review application, which is wholly devoid of any merit, is dismissed. Pending applications, if any, also stand disposed off.

February 08, 2023
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(ALKA SARIN)
JUDGE

NOTE : Whether speaking/non-speaking : Speaking
Whether reportable : YES/NO