

CM-15607-CII of 2023 and
RA-CR-129 of 2023 in
CR-3952 of 2023

2023:PHHC:142980

Kidcare Child Hospital and another vs. Smt. Sudha Bansal

Present: - Mr. R.P. Singh Ahluwalia, Advocate,
for the applicants.

This review petition has been filed by the petitioners under Order XLVII Sub Section (1) read with Section 151 CPC for review of order dated 09.08.2023 passed by this Court in CR-3952 of 2023 on the ground that during the pendency of revision petition, respondent filed application under Order 7 Rule 11 CPC for rejection of the plaint filed by the applicant-petitioners under the Pre-emption Act, which has been dismissed by the Court of learned Civil Judge (Junior Division), Kalka, vide order dated 27.07.2023 and the order dated 27.07.2023 is necessary for disposal of the revision petition and secondly for consideration of judgment of the Hon'ble Supreme Court in ***Rajendra Tiwary v. Basudeo Prasad, AIR 2002 SC 136*** and this Court in ***Huges Communications India and others v. East West Traders and another, 2013 (3) PLR 258.***

I have heard learned counsel for the applicant-petitioners and perused the record.

So far as rejection of application filed by the respondent under Order 7 Rule 11 CPC is concerned, nothing has been mentioned in the revision petition nor the pendency of the same was argued by learned counsel for the petitioners. Moreover, order rejecting the application under Order 7 Rule 11 CPC was passed on 27.07.2023,

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whereas learned counsel for the applicant concluded his arguments and the order was reserved by this Court on 19.07.2023. Therefore, the same being subsequent event is not a ground to review the order passed by this Court on 09.08.2023. The judgments referred by learned counsel for the applicant-petitioners are on the different footing, therefore, no benefit of the same can be given to the petitioners inasmuch as it has already been made clear in the order dated 09.08.2023 that proceedings before the Civil Court and the Rent Controller cannot be equated.

In ***Kamlesh Verma Vs. Mayawati and others 2013 (5) Recent Apex Judgments 62***, the Hon'ble Supreme Court held that in the following cases the review petition will not be maintainable: -

- “(i) A repetition of old and overruled argument is not enough to reopen concluded adjudications.*
- (ii) Minor mistakes of inconsequential import.*
- (iii) Review proceedings cannot be equated with the original hearing of the case.*
- (iv) Review is not maintainable unless the material error, manifest on the face of the order, undermines its soundness or results in miscarriage of justice.*
- (v) A review is by no means an appeal in disguise whereby an erroneous decision is re-heard and corrected but lies only for patent error.*
- (vi) The mere possibility of two views on the subject cannot be a ground for review.*
- (vii) The error apparent on the face of the record should not be an error which has to be fished out and searched.*
- (viii) The appreciation of evidence on record is fully within the domain of the appellate court, it cannot be permitted to be advanced in the review petition.”*

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In view of the above, no ground is made out to review the order dated 09.08.2023 passed by this Court. Hence, review application and application seeking stay of proceedings before the Rent Controller, Kalka, are dismissed.

13.10.2023
R.S.

(NAMIT KUMAR)
JUDGE