

14.11.2024
sayandeep
Sl. No. 06
Ct. No. 08

RVW 240 of 2024
With
CAN 1 of 2024, CAN 2 of 2024

Kartick Manna
Vs.
State of West Bengal & ors.

Mr. Ujjal Ray
Mr. Kusadwaj Mallick
Mr. Diptyendu Kr. Pal

... for the applicant

Mr. Tapas Kr. Mukherjee
Ms. Tuli Sinha

..... for the State

The claim for compassionate appointment was rejected by the Tribunal which was assailed before us in WPST 8 of 2022. The said writ petition came up for final disposal on 17.06.2022 and after taking into consideration the argument advanced before us by the petitioner herein and the precedent declaring the law on the above subject, the writ petition was dismissed.

The main writ petition was argued by Mr. Bhagbat Chaudhury with the advocate-on-record Mr. Subrata Mukherjee. The present review application is taken out by Mr. Diptyendu Kumar Pal who was neither advocate-on-record of the main writ petition nor appeared along with the then advocate-on-record.

Mr. Ray learned arguing counsel submits that there has been a wrong submission which was advanced before the Tribunal as well as before this Court in the writ petition and the real facts were not placed before the Court.

What transpires from the aforesaid submissions that taking advantage of the provisions of review, the petitioner is attempting to reargue the matter on merit. The review jurisdiction cannot be expanded to the height where the Court would re-visit its order or re-write the Judgment but has to be considered within the limited compass, more particularly, within the contour of order 47 Rule 1 of the Code of Civil Procedure. We noticed that the review applications are invariably filed by another set of lawyer and attempt is made to re-argue the matter as if the argument in the main proceedings was not appropriate and/or proper.

The Apex Court in the identical situation expressed its concern in this regard in case of **Tamil Nadu Electricity Board and Anr. vs. N. Raju Reddier and anr.** reported in **AIR 1997 SC 1005** in the following:

1. It is a sad spectacle that a new practice unbecoming and not worthy of or conducive to the profession is cropping up. Mr. Mariaputham, Advocate-on-Record had filed vakalatnama for the petitioner-respondent when the special leave petition was filed. After the matter was disposed of, Mr. V. Balachandran, Advocate had filed a petition for review. That was also dismissed by this Court on 24-4-1996. Yet another advocate, Mr. S.U.K. Sagar, has now been engaged to file the present application styled as "application for clarification", on the specious plea that the order is not clear and unambiguous. 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 too by the Advocate-on-Record who neither appeared nor was party in the main case. It is salutary to note that the 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. In Review Petition No. 2670 of 1996 in CA No. 1867 of 1992, a Bench of three Judges to which one of us, K. Ramaswamy, J., was a member, had held as under:

“The record of the appeal indicates that Shri Sudarsh Menon was the Advocate-on-Record when the appeal was heard and decided on merits. The review petition has been filed by Shri Prabir Chowdhury who was neither an arguing counsel when the appeal was heard nor was he present at the time of arguments. It is unknown on what basis he has written the grounds in the review petition as if it is a rehearing of an appeal against our order. He did not confine to the scope of review. It would not be in the interest of the profession to permit such practice. That apart, he has not obtained ‘No Objection Certificate’ from the Advocate-on-Record in the appeal, in spite of the fact that Registry had informed him of the requirement for doing so. Filing of the ‘No Objection Certificate’ would be the basis for him to come on record. Otherwise, the Advocate-on-Record is answerable to the Court. The failure to obtain the ‘No Objection Certificate’ from the erstwhile counsel has disentitled him to file the review petition. Even otherwise, the review petition has no merits. It is an attempt to reargue the matter on merits.

On these grounds, we dismiss the review petition.”

In view of the observation made by the Apex Court, we find that the attempt to file the review application stands on the same pedestal. We, thus, do not find that it is a fit case where the Court should exercise its power to review its order.

The application for review is dismissed.

Accordingly, the connected applications are also dismissed.

(Harish Tandon, J.)

(Shampa Dutt (Paul), J.)