



2024:CGHC:37512

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

REVP No. 188 of 2024

1 - Niraj Jain S/o Shri P.C. Jain Aged About 52 Years R/o Rajniketan, Circuit Road- House, Jagdalpur District, Bastar Chhattisgarh

... Petitioner

versus

1 - Competent Authority Cum Additional Collector (Land Acquisition Officer Under Indian Railway Act) Jagdalpur, District Bastar Chhattisgarh

2 - Sub Divisional Officer Cum Land Acquisition Officer Jagdalpur, District Bastar Chhattisgarh

3 - South-Eastern Central Railway Through General Manager, Bilaspur, Chhattisgarh

4 - Chief Administrative Officer (Construction) South-Eastern Central Railway, Bilaspur, Chhattisgarh

5 - Bastar Railway Private Limited Through Its Director, Raipur Chhattisgarh

6 - The Arbitrator (Under Railway Act) Cum Commissioner Bastar Division At Jagdalpur, District Bastar Chhattisgarh

... Respondents

(Cause title is taken from Case Information System)

For Petitioner	: Mr Vivek Chopda, Advocate along with Mr. Moulik Bhansali, Advocate
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For State	: Mr.Suyashdhar Badgaiya, Dy. Govt. Advocate
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For Resp. No. 3 & 4	: Mr. Ramakant Mishra, Dy. Solicitor General
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Hon'ble Shri Justice Parth Prateem Sahu

Order On Board

24/09/2024

- Petitioner has filed this review petition seeking review of the order dated 08.08.2024 whereby this Court dismissed writ petition observing thus:

“3. Learned counsel for respondents No.3 & 4 would submit that the award passed by the Land Acquisition Officer was put to challenge before the authorities and writ petitions were

filed before this Court. All the writ petitions came up for consideration and decided vide order dated 10.1.2022. In the said order, the award dated 12.2.2018 passed by the competent authority was set aside. He submits that against the order passed in WP(Cr.) No.674/2019 and connected matters, writ appeal was filed which was dismissed. Against the order passed in writ appeal aggrieved persons have already filed SLP before Hon'ble Supreme Court, which is pending consideration.

4. In the aforementioned facts and circumstances of the case when the claim of petitioner is based on award dated 12.02.2018, which is set aside by the High Court in WP(Cr.) No. 674 of 2019 and connected matters by which the petitioners were also awarded compensation, and the case is pending before Hon'ble Supreme Court for adjudication, no relief as prayed for by the petitioner can be granted in this writ petition, at this stage."

2. Learned counsel for petitioner submits that while hearing of writ petitions, learned counsel appearing for the respective parties therein could not brought to the notice of this Court that award was set aside only against parties who have earlier filed writ petitions before this Court bearing W.P. (C.) No. 3355 of 2019 and not against petitioner. He submits that technicality of procedural law should not come on the way to provide justice to party and therefore, review petition be allowed and order passed in writ petition be set aside. He further contended that in the writ petition, it was pleaded that quashment of award is with respect to award passed with respect to land of village – Palli and not with respect to land of petitioners situated at Kangoli. In support of his contention, he placed reliance in the case of **S. Nagaraj v. State of Karnataka** reported in **1993 Supp (4) SCC 595**, in case of

Board of Control for Cricket in India v. Netaji Cricket Club reported in **(2005) 4 SCC 741**, in case of **S. Bagirathi Ammal v. Palani Roman Catholic Mission** reported in **(2009) 10 SCC 464** and in case of **DDA v. Godfrey Phillips (I) Ltd.** reported in **(2022) 8 SCC 771**.

3. I have heard learned counsel for the petitioner.
4. Petitioner is seeking review of the order passed by this Court in W.P.C. No. 3047 of 2024 vide order dated 08.08.2024. Order under writ petition was passed on merits considering the facts which was brought before this Court that is the order passed in W.P. (Cr.) 674 of 2019 and also the fact that order passed in writ petition was affirmed by Division Bench and against which, S.L.P. was filed, which is pending consideration.
5. Perusal of the grounds raised in the review petition would show that petitioners want re-hearing of writ petition afresh on merits which is not permissible in exercise of review jurisdiction. Review petition cannot be heard as an appeal. Every error, factual or legal, is not permissible to be corrected in review jurisdiction. It is for the appellate Court to correct the error, if any, in the order subject matter of review. Scope of review, under Order 47 Rule 1 of CPC, is very limited. Even the order passed in writ jurisdiction, if sought to be reviewed, is to be considered strictly under the provisions of Order 41 Rule 1 of CPC. Order under review can be interfered with only when there is error apparent on the face of record.
6. Hon'ble Supreme Court in the case of Parsion Devi and Ors. Vs. Sumitri Devi & Ors. reported in (1997) 8 SCC 715 has held as under:-

“10..... There is a clear distinction between an erroneous decision and an error apparent on the face of the record. While the first can be corrected by the higher forum, the latter only can be corrected by exercise of the review jurisdiction. While passing the impugned order, Sharma, J. found the order in Civil Revision dated 25.4.1989 as an erroneous decision, though without saying so in so many words. Indeed, while passing the impugned order Sharma, J. did record that there was a mistake or an error apparent on the face of the record which was not of such a nature, "which had to be detected by a long drawn process of reasons" and proceeded to set at naught the order of Gupta, J..”

7. In the case of Surendra Kumar Vakil & Ors. Vs. Chief Executive Officer, MP and Ors., reported in (2004) 10 SCC 126, Hon'ble Supreme Court has held thus:-

“10.....A point that has been heard and decided cannot form a ground for review even if assuming that the view taken in the judgment under review is erroneous.”

8. In the case of Asharfi Devi (dead) through LRs Vs. State of Uttar Pradesh and Ors. reported in (2019) 5 SCC 86, it was held thus:

“18. It is a settled law that every error whether factual or legal cannot be made subject matter of review under Order 47 Rule 1 of the Code though it can be made subject matter of appeal arising out of such order. In other words, in order to attract the provisions of Order 47 Rule 1 of the Code, the error/mistake must be apparent on the face of the record of the case.”

9. In the case of Shanti Conductors Pvt. Ltd. Vs. Assam State Electricity Board & Ors. reported in (2020) 2 SCC 677, it was held:-

“25. The scope of review has been reiterated by this Court from time to time. It is sufficient to refer the judgment of this Court in Parsion Devi and Others Vs. Sumitri Devi and - 6- Others, (1997) 8 SCC 715, wherein in paragraph 9 following has been laid down:

“9. Under Order 47 Rule 1 CPC a judgment may be open to review inter alia if there is a mistake or an error apparent on the face of the record. An error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of the record justifying the court to exercise its power of review under Order 47 Rule 1 CPC. In exercise of the jurisdiction under Order 47 Rule 1 CPC it is not permissible for an erroneous decision to be “reheard and corrected”. A review petition, it must be remembered has a limited purpose and cannot be allowed to be “an appeal in disguise”. ”

10. In view of the grounds taken by the petitioners in this review petition and submissions made, as discussed above, if considered in the light of aforementioned precedents of Hon'ble Supreme Court, I do not find any error apparent on the face of record.
11. Accordingly, review petition being sans merits is liable to be and is hereby dismissed.

Sd/-
(Parth Prateem Sahu)
Judge

Shayna