

2024:PHHC:066190



128.

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

**CM-7579-CII-2024 IN/AND
RA-CR-64-2024 IN
CR-4057-2023**

Date of decision: 07.05.2024

Suresh Kumar

.... Petitioner

Versus

Sanjay Kumar and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Mr. Sourabh Saini, Advocate and
Mr. Umesh Kumar Kanwar, Advocate,
for the applicant-petitioner.

GURBIR SINGH, J.

CM-7579-CII-2024

Prayer in this application filed under Section 5 of Limitation Act, 1963 is for condonation of delay of 19 days in filing the review application.

For the reasons mentioned in the application, same is allowed and delay of 19 days in filing the review application is condoned.

RA-CR-64-2024

1. Present application under Order 47 Rule 1 read with Section 114 CPC has been filed by the petitioner for review of judgment dated 24.07.2023 passed by this Court in Civil Revision No.4057 of 2023.

2. I have heard the submissions of learned counsel for the applicant-petitioner and have gone through the application.

3. By way of present application, petitioner wants review of the points which have already been dealt with by this Court in its judgment dated 24.07.2023.

3.1 In case *S. Murali Sundaram Versus Jothibai Kannan and others, 2023(2) R.C.R. (Civil) 111*, Hon'ble Apex Court has explained that the scope of review under Order 47 Rule 1 read with Section 114 CPC is limited and under the guise of review, the petitioner cannot be permitted to reargue the questions which have already been addressed and decided. An error which is not self-evident has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of record justifying the court to exercise its power to review.

3.2 In case *Arun Dev Upadhyaya Versus Integrated Sales Service Ltd. and another, 2023(8) SCC 11*, it has been held that power to review cannot be exercised as appellate power and has to be strictly confined to the scope and ambit of Order 47 Rule 1 CPC. Error on face of record must be such error which on mere looking at the record should strike and it should not require any long drawn process of reasoning on points where there may conceivably be two opinions.

3.3 In case *Anmol Singh Nayar Versus State of Haryana and others, 2023(4) R.C.R. (Civil) 565*, a Division Bench of this Court has held that power of review under Order 47 Rule 1 CPC is very limited and it may

be exercised only if there is mistake or error apparent on face of record. Such application for review cannot be decided like regular intra court appeal.

3.4 In case *Soma Jassal Versus Dhilpreet Singh Gill and others, 2022(4) R.C.R. (Civil) 776*, this Court has held that if there is no mistake apparent on face of record, review of judgment on the basis of new evidence will be illegal and without jurisdiction.

3.5 The applicant-petitioner herein failed to show illegality in the judgment passed by the trial Court. Moreover, the question that the decree dated 06.03.1986 has been obtained on the basis of fraud and the question whether revenue authorities can change mutation after 32 years without giving notice, were held to be triable issues and in order to preserve suit property, it has been further held that alienation or transfer of suit property in any manner would lead multiplicity of proceedings. Para Nos.8 and 9 of judgment dated 24.07.2023 read as under:-

“8. The civil suit filed by plaintiffs against defendant no.12 was decreed on 06.03.1986 bearing *Civil Suit No.161 of 1986 titled as Suresh Kumar and others vs. Fateh Chand*. Mutation no.1095 was sanctioned. As per contentions of the plaintiff, in the alleged family settlement, 1/5th share each was given to the plaintiff and defendants no.1 to 4 and the same was also incorporated in the revenue records. After 32 years, said mutation was cancelled and mutation no.1839 was sanctioned on 19.07.2018 without issuing notice to the affected parties and without any order passed by any competent Court of law.

In the earlier suit, property was comprised in khasra nos.209/1 and 209/3. Khasra no.209/2 was not part of the said property.

9. The plea of the plaintiff in the case is that the site plan annexed with the plaint of *Civil Suit No.161 of 1986*, decreed on 06.03.1986, was obtained by fraud and the site plan

prepared by the Authorities was not as per the spot. The same was wrongly furnished with the said case. So, question of fraud is required to be proved by way of evidence. Whether, after 32 years of sanctioning of mutation, the Revenue Authorities, without giving notice to the effected parties, can again sanction the mutation, all these are triable issues and the suit property is required to be preserved and further alienation or transfer of suit property in any manner would lead to multiplicity of proceedings. In case Maharwal Khewaji Trust (Regd.), Faridkot vs. Baldev Dass reported as (2004) 8 Supreme Court Cases 488, it is held by Hon'ble Apex Court that unless and until a case of irreparable loss or damage is made out by a party to the suit, the Court should not permit that nature of the property being changed which also includes alienation or transfer of the property which may lead to loss or damage being caused to the party who may ultimately succeed and may further lead to multiplicity of proceedings."

4. There is no error apparent on the face of record. When there is no such error, the power under review cannot be exercised. Thus, I do not find any illegality in the judgment dated 24.07.2023 passed by this Court in Civil Revision No.4057 of 2023. The review application is, accordingly, dismissed.

(GURBIR SINGH)
JUDGE

May 07, 2024
sanjeev

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