



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(293)

RA-CW-328-2016 in
CWP-12308-2016
Date of Decision : 23.09.2024

Nirmal Singh Bath

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Nilesh Bhardwaj, Advocate for the petitioner.

Mr. Amarpreet Singh Bains, Asstt. Advocate General, Punjab.

Harsimran Singh Sethi J. (Oral)

1. The present review petition has been filed for reviewing the order dated 04.07.2016 by which the writ petition was dismissed on the ground of delay.
2. Learned counsel appearing on behalf of the review petitioner submits that in the facts and circumstances of the present case, the delay of 19 years was needed to be condoned but the Court did not take into consideration the said fact while passing the order.
3. I have heard learned counsel for the parties and have gone through the record with their able assistance.
4. The jurisdiction of this Court while exercising the powers of review is very limited and the same can only be exercised in case, any wrong fact has taken into consideration to arrive at a conclusion. This is not the case of the petitioner. Under the garb of the present application, learned



counsel for the review petitioners intends to re-argue the issue so as to convince this Court to arrive at a conclusion than the one arrived by the Co-ordinate Bench in the order sought to be reviewed. The same is not within the purview of the review. In case, the petitioner is aggrieved in any manner with regard to the findings recorded by the Court, he can avail the appropriate remedy of appeal rather than review.

5. As per the settled principle of law laid down by the Hon'ble Supreme Court of India in Civil Appeal Nos. 5503-04 of 2022 titled as ***S. Madhusudhan Reddy Vs. V. Narayana Reddy and Others***, decided on 18.08.2022, under the garb of review, the arguments cannot be addressed to examine the issue once again on merit rather than pointing out the incorrect facts taken into account to record the findings. The relevant paragraphs No. 13 and 18 of this judgment are as under :-

“13. A glance at the aforesaid provisions makes it clear that a review application would be maintainable on (i) discovery of new and important matters or evidence which, after exercise of due diligence, were not within the knowledge of the applicant or could not be produced by him when the decree was passed or the order made; (ii) on account of some mistake or error apparent on the face of the record; or (iii) for any other sufficient reason.

*18. Under the garb of filing a review petition, a party cannot be permitted to repeat old and overruled arguments for reopening the conclusions arrived at in a judgment. The power of review is not to be confused with the appellate power which enables the Superior Court to correct errors committed by a subordinate Court. This point has been elucidated in **Jain***



Studios Ltd. v. Shin Satellite Public Co. Ltd. (2006) 5 SCC 501
where it was held thus:

"11. So far as the grievance of the applicant on merits is concerned, the learned counsel for the opponent is right in submitting that virtually the applicant seeks the same relief which had been sought at the time of arguing the main matter and had been negated. Once such a prayer had been refused, no review petition would lie which would convert rehearing of the original matter. It is settled law that the power of review cannot be confused with appellate power which enables a superior court to correct all errors committed by a subordinate court. It is not rehearing of an original matter. A repetition of old and overruled argument is not enough to reopen concluded adjudications. The power of review can be exercised with extreme care, caution and circumspection and only in exceptional cases.

12. When a prayer to appoint an arbitrator by the applicant herein had been made at the time when the arbitration petition was heard and was rejected, the same relief cannot be sought by an indirect method by filing a review petition. Such petition, in my opinion, is in the nature of 'second innings' which is impermissible and unwarranted and cannot be granted."

(emphasis added) "

6. No ground is made out for any interference in the review petition.
7. Dismissed.

September 23, 2024
kanchan

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No