

2024:PHHC:163499



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

RA-CW-506-2024

in

CWP-663-2018

Date of decision :09.12.2024

THE MUKERIAN CANE GROVERS COOPERATIVE
SOCIETY LTD.

...Petitioner

Versus

THE PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
JALANDHAR AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Varun Gupta, Advocate
for the review-applicant/petitioner.

HARSH BUNGER, J. [ORAL]

The present application has been filed under Order 47 Rule 1 of the Code of Civil Procedure, read with Section 151 of the Code of Civil Procedure, seeking review of order dated 13.12.2023 passed by this Court in ***CWP-663-2018***.

2. *De hors* the fact that the review application has been filed after delay of almost 324 days, it is noticeable that the instant review application has been filed by a counsel, who was neither the filing counsel nor the arguing counsel at the time of passing of order dated 13.12.2023. The present review has been sought primarily on the ground that earlier counsel has not pleaded the case of the review applicant properly.

2.1 In my considered view, the afore-said ground is not available to the review-applicant/petitioner, in view of the judgment rendered by the

Hon'ble Apex Court in ***T.N. Electricity Board & Anr. Vs. N. Raju Reddiar & Anr. [(1997) 9 SCC 736]*** wherein, it has been held as under :-

“It is a sad spectacle that new practice unbecoming of worthy and 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 April 24, 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 not that 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.2670/96 in CA No.1867/92, a Bench of three Judges to which one of us, K. Ramaswamy, J., was a member, has held as under :

“The record of the appeal indicates that Shri Sudarsh Menon 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 be not in the interest of the profession to permit such practice. That part, 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.”

Once the petition for review is dismissed, no application for clarification should be filed, much less with the change of the advocate-on-record. This practice of changing the advocates and filing repeated petitions should be deprecated with heavy had for purity of administration of law and salutary and healthy practice.”

3. Furthermore, the present writ petition was disposed of primarily on the statement made on behalf of the counsel for the petitioner and the operative part of the order dated 13.12.2023 reads as under :-

“2. At the outset, learned counsel for petitioner submits that the petitioner-Society is under liquidation since 2008 and as far as order in question is concerned, the claim of respondent No.3-workman stands crystallized to the effect that he has been held entitled to payment of wages for the period from 01.05.2000 to 31.05.2005 at the rate of Rs.5,964/- per month, which comes to Rs.3,63,804/- with interest at the rate of 8%

per annum from the date wages became due till its payment.

3. *Learned counsel for petitioner-Society submits that since petitioner-Society is under liquidation, the aforesaid amount shall have to be claimed by respondent No.3-workman by submitting his claim before the concerned Liquidator (Assistant Registrar Cooperative Societies, Mukerian).*

4. *Learned counsel for respondent No.3-workman does not raise serious objection to the same.*

5. *In view of aforesaid submissions, the instant writ petition is disposed of with a direction to respondent No.3-workman to submit his claim as crystalized by the Tribunal below before the concerned Liquidator (Assistant Registrar Cooperative Socieites, Mukerian) within a period of one month from today.”*

4. By filing the present review application, the applicant-petitioner wants to re-argue and re-agitate the matter, which cannot be permitted in law.

5. Accordingly, finding no merit in the review application, the same is, hereby, dismissed.

December 09, 2024
gurpreet

(HARSH BUNGER)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No