

Chaman Lal vs Manish Kumar & Ors. on 28 March, 2025

\$~48

* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision: 28.03.

+ RC.REV. 325/2023

CHAMAN LAL

.....Petition

Through: Ms. Sopna Rani Padhy, Adv. with
Petitioner in-person

versus

MANISH KUMAR & ORS.

Through:

Mr. Kanwal Chaudh
Kumar, Advs. for

CORAM:

HON'BLE MS. JUSTICE TARA VITASTA GANJU

TARA VITASTA GANJU, J.: (Oral)

1. The present Review Petition has been filed by Respondent No.1 seeking review of order dated 04.02.2025 passed by this Court.

2. It is the case of the learned Counsel for the Review Petitioner/Respondent No.1 that the Respondent No.1 did not take any adjournment and thus the order dated 04.02.2025 which sets out that the adjournment was taken by Respondent No.1 has an apparent error and should be reviewed.

3. The record reflects that on 23.07.2024, the Registry was directed to supply e-copy of the Trial Court record (TCR) to Respondent No.1 and the matter was listed for arguments on 15.10.2024. It is apposite to extract the relevant part of the order dated 23.07.2024 below:

"3. List on 15.10.2024 for arguments.

4. At the request of counsel for the respondent no. 1, the Registry is directed to supply e-copy of LCR to him."

[Emphasis supplied]

4. Thereafter, the matter was listed on 15.10.2024. The Respondent No.1 on that day stated that he has not received a copy of the Trial Court record. Time was also sought to file written submissions/synopsis. The order dated 15.10.2024 is set out below:

"1. The grievance of the Respondent No.1 is that the Registry is not supplying the copy of the Trial Court Record to him which would enable him to better prepare with the matter. He submits that despite repeated requests, the same has not been provided.

2. We fail to understand why the copies of Trial Court Record are not being provided by the Registry.

2.1 Let parties take their respective fresh Pen drives for the same to the Registry for this purpose.

3. Written Submissions of the Petitioner are on record.

3.1 The Respondent shall in the meantime comply with order dated 04.12.2023.

4. List on 04.02.2025 at 4PM."

[Emphasis Supplied]

5. The matter was thereafter listed for hearing on 04.02.2025 at a fixed time. However, on 04.02.2025, the Respondent No.1 made a request for an adjournment.

6. On 04.12.2023, this Court had crystalised the issues in the present Petition. Thereafter, on 23.07.2024, a request was made by learned Counsel for Respondent No.1 pursuant to which a Coordinate Bench of this Court directed the Registry to supply e-copy of TCR to the Respondent No.1. Thus, the matter was adjourned at the request of Respondent No.1.

6.1 On 15.10.2024, as well no hearing took place in the matter in view of the fact that the Review Petitioner/Respondent No.1 had again sought time to obtain a copy of the Trial Court Record to enable him to better prepare the matter, as is set out in paragraph 1 of order dated 15.10.2024.

7. Thus, on three dates, 23.07.2024, 15.10.2024 and 04.02.2025, the matter could not be heard and in view of the orders passed previously, this Court deemed it apposite to pass the Order dated 04.02.2025.

8. The Supreme Court in the case of Kamlesh Verma v. Mayawati¹, has held that the application for review is entertained only under the grounds mentioned in Order XLVII Rule 1 of the Code of Civil Procedure, 1908 including on account of a mistake or an error apparent on the face of the record. A review proceeding cannot be equated with an original hearing unless there is a glaring omission or similar grave error which leads to a miscarriage of justice, the power cannot be exercised. The relevant extract of the Kamlesh Verma case is reproduced below:

"18. Review is not rehearing of an original matter. The power of review cannot be confused with appellate power which enables a superior court to correct all errors committed by a subordinate court. A repetition of old and overruled argument is not enough to reopen concluded adjudications. This Court in Jain Studios Ltd. v. Shin Satellite Public Co. Ltd. [(2006) 5 SCC 501] , held as under: (SCC pp. 504-505, paras 11-12) "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 (2013) 8 SCC 320 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..."

19. Review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of Order 47 Rule 1 CPC. In review jurisdiction, mere disagreement with the view of the judgment cannot be the ground for invoking the same. As long as the point is already dealt with and answered, the parties are not entitled to challenge the impugned judgment in the guise that an alternative view is possible under the review jurisdiction.

Summary of the principles

20. Thus, in view of the above, the following grounds of review are maintainable as stipulated by the statute:

20.1. When the review will be maintainable:

- (i) Discovery of new and important matter or evidence which, after the exercise of due diligence, was not within knowledge of the petitioner or could not be produced by him;
- (ii) Mistake or error apparent on the face of the record;
- (iii) Any other sufficient reason.

The words "any other sufficient reason" have been interpreted in *Chhajju Ram v. Neki* [(1921-22) 49 IA 144 : (1922) 16 LW 37 : AIR 1922 PC 112] and approved by this Court in *Moran Mar Basselios Catholicos v. Most Rev. Mar Poulouse Athanasius* [AIR 1954 SC 526 : (1955) 1 SCR 520] to mean "a reason sufficient on grounds at least analogous to those specified in the rule". The same principles have been reiterated in *Union of India v. Sandur Manganese & Iron Ores Ltd.* [(2013) 8 SCC 337 : JT (2013) 8 SC 275]

20.2. When the review will not be maintainable:

When the review will not be maintainable:

- (i) A repetition of old and overruled argument is not enough to reopen concluded adjudications.
- (ii) Minor mistakes of inconsequential import.

- (iii) Review proceedings cannot be equated with the original hearing of the case.
- (iv) Review is not maintainable unless the material error, manifest on the face of the order, undermines its soundness or results in miscarriage of justice.
- (v) A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected but lies only for patent error.
- (vi) The mere possibility of two views on the subject cannot be a ground for review.
- (vii) The error apparent on the face of the record should not be an error which has to be fished out and searched.
- (viii) The appreciation of evidence on record is fully within the domain of the appellate court, it cannot be permitted to be advanced in the review petition.
- (ix) Review is not maintainable when the same relief sought at the time of arguing the main matter had been negated."

[Emphasis Supplied]

- 9. No error has been shown to the Court which would require this Court to exercise jurisdiction under its powers for review, given the settled law as discussed above.
- 10. In view of the above discussion, this Court finds no reason to review the order dated 04.02.2025.
- 11. The Review Petition is accordingly dismissed.
- 12. List before the Roster Bench on 22.04.2025.
- 13. The parties will act based on the digitally signed copy of the order.

TARA VITASTA GANJU, J MARCH 28, 2025/jn Click here to check corrigendum, if any