

GAHC010036232021



2024:GAU-AS:8193-

DB

**THE GAUHATI HIGH COURT  
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)**

**Case No. : Review.Pet./34/2021**

RAHIMUDDIN  
S/O NAYANDI MIA @ NAYANDI, VILLAGE-GAGALMARI, PS BARPETA,  
DIST. BARPETA, ASSAM

VERSUS

THE UNION OF INDIA AND 6 ORS.  
REPRESENTED BY THE SECRETARY OF THE MINISTRY OF HOME AFFAIRS,  
GOVT. OF INDIA, NEW DELHI-1

2:THE STATE OF ASSAM  
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM  
HOME DEPARTMENT  
DISPUR  
GUWAHATI-6

3:THE ELECTION OF INDIA  
NEW DELHI-1

4:THE STATE COORDINATOR OF NRC  
ASSAM  
DISPUR  
GUWAHATI-6

5:THE DEPUTY COMMISSIONER  
BARPETA  
DIST. BARPETA  
ASSAM  
PIN-781301

6:THE SUPERINTENDENT OF POLICE (B) BARPETA

DIST. BARPETA  
ASSAM  
PIN-781301

7:THE OFFICER IN CHARGE  
BARPETA POLICE STATION  
DISTRICT-BARPETA  
ASSAM  
PIN-78130

**Advocate for the Petitioner : MR. M I HUSSAIN, MR. S M RAHMAN**

**Advocate for the Respondent : ASSTT.S.G.I., SC, F.T,SC, NRC,SC, ELECTION COMMISSION.**

**- B E F O R E -**

**HON'BLE MR. JUSTICE MANASH RANJAN PATHAK  
HON'BLE MR. JUSTICE NELSON SAILO**

Date of Hearing : 15.03.2024 & 18.03.2024

Date of Judgment : **20.08.2024**

**JUDGMENT & ORDER (CAV)**

**(NELSON SAILO, J)**

Heard Mr. M I Hussain, learned counsel for the review petitioner/writ petitioner, Mr. J Payeng, learned Standing Counsel, Home Department for respondent Nos. 2, 6 & 7, Mr. A I Ali, learned Standing Counsel, Election Commission of India for respondent No. 3 and Mr. P Sarma, learned Addl. Senior Government Advocate, Assam for respondent 5.

**[2.]** The instant review petition has been filed by the review petitioner (petitioner)

seeking review of the Order dated 07.11.2017 passed by this Court in WP(C) No. 550/2016 by invoking Chapter-X of the Gauhati High Court Rules read with Order 47 Rule 1 & 2 of the Code of Civil Procedure (CPC).

**[3.]** Brief facts essential for disposal of the instant review petition is that the reference was made by the Superintendent of Police (Border), Barpeta under the Illegal Migrants (Determination by Tribunals) Act, 1983 (IMDT Act, in short) with the allegation that the petitioner was an illegal migrant as defined under IMDT Act. Section 3(1)(C) of the IMDT Act defines an illegal migrant as a foreigner who had unauthorisedly entered into India after 25.03.1971. IMDT Act was declared to be unconstitutional by the Supreme Court in *Sarbananda Sonowal vs. Union of India & Anr.*, (2005) 5 SCC 665. Following the direction passed in the case of Sarbananda Sonowal (Supra), the said reference against the petitioner was registered under the Foreigners Act, 1946 read with Foreigners (Tribunals) Order, 1964 as FT Case No. 87/2014 and assigned to the Foreigners Tribunal-1, Barpeta (Tribunal, in short) for opinion. Notice was issued to the petitioner by Tribunal whereafter, he entered appearance and filed written statement denying the allegation that he was a foreigner by claiming to be a citizen of India. He also adduced evidence, oral as well as documentary. After hearing the matter and upon appreciating the evidence on record, the Tribunal passed an Order dated 21.09.2015 answering the reference in favour of the State. Aggrieved, the petitioner filed WP(C) No. 550/2016 before this Court. This Court, upon hearing the parties and upon perusal of the records of the case, dismissed the writ petition vide Order dated 07.11.2017.

**[4.]** Against the order of dismissal of the writ petition, the petitioner approached the

Hon'ble Supreme Court by filing SLP (Crl.) Diary No. 36181/2019. The SLP was accompanied by I.A No. 172538/2019 for condonation of delay in filing the SLP and also by I.A No. 172544/2019 seeking condonation of delay in re-filing/curing the defects. The said SLP of the petitioner was, however, dismissed as withdrawn vide Order dated 09.12.2019 with liberty to the petitioner to apply for review before this Court. The petitioner, thereafter, on 22.02.2021 filed the instant review petition.

**[5.]** Mr. M I Hussain, learned counsel for the petitioner submits that review of the Order dated 07.11.2017 is being sought by the petitioner because of the fact that there are errors apparent on the face of the record. To substantiate his submission, the learned counsel has referred to paragraph Nos. 17, 21 & 24 of the Order dated 07.11.2017 which is sought to be reviewed.

**[6.]** The learned counsel further submits that the petitioner on 04.08.2014 had sworn an affidavit which he exhibited as Exhibit-E stating that his father's name was Nayandi Miah and grandfather's name was Birbal Mia. Nayandi Miah, Nayadi Miah and Nayandi is one and the same person. Therefore, minor discrepancy in the name of the father of the petitioner having been clearly explained in the said affidavit, this Court had committed error in not accepting the same.

**[7.]** The learned counsel further submits that minor discrepancies in the age of his father cannot be fatal to the case projected by the petitioner and that the same can be only overlooked in view of the Judgment of this Court in *State of Assam & Ors. Vs. Moslem Mondal & Ors., 2013 (1) GLT 809*. The learned counsel also submits that the written

statement filed by the petitioner before the Tribunal may have been inadequate but he has led his evidence before the Tribunal and therefore, this aspect having not been considered both by this Court as well as the Tribunal. The Order dated 07.11.2017 should be reviewed. In support of his submission, the learned counsel has relied upon the following authorities:-

- (1) *Dadu alias Tulsidas, (2000) 8 SCC 437.*
- (2) *Union of India & Anr. vs. S.B Vohra & Ors., (2004) 2 SCC 150.*
- (3) *Board of Control for Cricket in India & Anr vs. Netaji Cricket Club and Ors., (2005) 4 SCC 741 and*
- (4) *Patit Barman vs. Assam Fisheries Development Corporation Ltd. & Ors, 2018 (5) GLT 397.*

**[8.]** Mr. J Payeng, learned counsel for the Home Department, on the other hand, submits that the petitioner has invoked Order 47 Rule 1 & 2 of the CPC to file the instant review petition. He submits that the review petition has to be filed within a period of 30 days from the date of the order sought to be reviewed. However, in the instant case, it has taken the petitioner more than 3 years to file the instant review petition. He submits that the petitioner has not explained as to when he approached the Supreme Court against the Order dated 07.11.2017 and why he could not file the review petition soon after withdrawing the SLP on 09.12.2019 and why he filed the same only on 22.02.2021. He also submits that after passing of the Order dated 07.11.2017 in the writ petition filed by the petitioner, the petitioner had two options namely; to approach the Supreme Court through the SLP or file a review petition before this Court. The petitioner chose to file the SLP before the Hon'ble Supreme Court and the delay in filing the SLP or curing the defect in the SLP appears to have not been condoned

and therefore, delay in filing the instant review petition has to be reckoned w.e.f., 17.11.2017. The learned counsel submits that despite the inordinate delay in filing the instant review petition, the petitioner has not filed a separate application seeking condonation of delay and that he has only made some statements in paragraph No. 14 of the review petition which cannot by any means be construed as sufficient cause and therefore, the review petition should be dismissed on grounds of inordinate delay and laches.

**[9.]** Mr. J Payeng, learned counsel further submits that even on merit, the petitioner has to show that there is an error apparent on the face of the record or the petitioner despite due care and diligence could not bring certain relevant materials to the notice of the Court at the relevant time or the petitioner has to show that there are other sufficient reasons for reviewing of the Order dated 07.11.2017 which has close nexus with the first two principles governing review. The learned counsel submits that from a perusal of the review petition, the petitioner has failed to show that any of the three grounds exist for reviewing the Order dated 07.11.2017. The learned counsel submits that it is a settled position in law that the grounds of review are very limited and that the review petition cannot be filed in the guise of an appeal. He submits that all the points raised by the petitioner in his review petition has already been argued before this Court by the petitioner through his counsel at the relevant time and therefore, the review petition should be rejected and dismissed. In support of his submission, Mr. J Payeng relies upon under the following authorities:-

(1) *Vedanta Limited vs. Goa Foundation & Ors.*, (2021) 7 SCC.

(2) *Kamlesh Verma vs. Mayawati & Ors.*, (2013) 8 SCC 320 and

(3) *Central Council for Research in Ayurvedic Sciences vs.*

*Bikartan Das & Ors., (2023) SCC Online SC 996.*

*(4) S Madhusudhan Reddy vs. V Narayana Reddy & Ors., (2022)*

*SCC Online SC 1034.*

**[10.]** Mr. A I Ali and Mr. P Sarma, learned counsels for respondent Nos. 3 and 5 respectively adopt the argument of Mr. J Payeng, learned counsel and they submit that the review petition is without any merit and the same should be dismissed.

**[11.]** We have heard the submissions made by the learned counsels for the rival parties and we have perused the materials available on record. The writ petition was disposed of vide Order dated 07.11.2017 and the petitioner, thereafter, approached the Hon'ble Supreme Court by filing SLP (Crl.) Diary No. No. 36181/2019. However, on the prayer of the petitioner, the SLP was dismissed as withdrawn vide Order dated 09.12.2019 with liberty to the petitioner to approach this Court for review of the Order dated 07.11.2017. After the passing of the Order dated 09.12.2019 by the Hon'ble Supreme Court, the petitioner filed the instant review petition only on 22.02.2021. As pointed out by Mr. J Payeng, learned counsel, explanation for the delay has been made by the petitioner only in paragraph No. 14 of the review petition stating that the delay was due to financial crisis and due to COVID-19. From the cause-title of Order dated 09.12.2019 by which the SLP was dismissed as withdrawn and liberty given to the petitioner to file review, it appears that there were some defects in the SLP filed by the petitioner and for which, he had also filed Interlocutory Application seeking condonation of delay in re-filing or curing the defects. However, no order has been produced before us showing that the delay was condoned or the defects were cured and therefore, it appears

that without there being any condonation of delay in re-filing or curing the defects, the SLP was withdrawn by the petitioner on 09.12.2019. We, therefore, noticed that time taken for filing the instant review petition, from the date of the order dated 07.11.2017 is more than three years. Although it has not been pointed out to us by the learned counsel for the petitioner but we are aware that due to the Covid-19 pandemic, the Apex Court in *Suo Motu Writ Petition (C) No. 3 of 2020 (In Re: Cognizance for extension of limitation)* through various orders and the last order being order dated 10.01.2022 directed that the period of limitation w.e.f 15.03.2020 to 28.02.2022 shall stand excluded for the purpose of limitation. The fact however remains that the writ petition was disposed by this Court on 07.11.2017 and the limitation period was directed to be excluded by the Apex Court w.e.f 15.03.2020 only. The petitioner has not given any explanation as to when he filed the SLP and also why he did not file the present review petition within a reasonable time after he withdrew the SLP on 09.12.2019.

**[12.]** Considering the delay, the explanation given by the petitioner for filing the review petition only on 22.02.2021 in paragraph No. 14 of the review petition is surprisingly very casual, cryptic and inadequate. The same cannot be accepted as sufficient cause to persuade us to condone the delay. However, notwithstanding our finding that there is inordinate delay in filing the instant review petition, we deem it proper to examine the review petition on merit.

**[13.]** The review petitioner has taken as many as 13 (thirteen) grounds for seeking review of the Order dated 07.11.2017. We have noticed that ground Nos. 1, 2, 8 & 9 are grounds taken by the petitioner as if he is seeking a review of the order passed by the

Tribunal. Since the review sought by the petitioner is the Order dated 07.11.2017 passed by this Court, there is no question of travelling back to the Order dated 21.09.2015 passed by the Tribunal in FT Case No. 87/2014.

**[14.]** The petitioner has sought to review the Order dated 07.11.2017 on the ground that this Court had failed to take into consideration the relevant materials available on record including the fact that his father's name was enlisted as a voter in the voters' list of 1966 & 1977 in respect of Jania Constituency. In this connection, the petitioner before the Tribunal had deposed that his father, in fact, was a voter from village Salekura under Jania Constituency in 1966, 1970 & 1985. The family shifted to village Gagalmari from village Salekura about 30 years ago from the year 2014. Thirty years from ago from the year 2014 would mean that they have shifted to village Gagalmari from village Salekura sometime in the year 1984. While such is the position, it is also the case of the petitioner that he had purchased land at village Salekura during the year 1997 by executing the Sale Deed dated 02.06.1997 which he exhibited as Exhibit-F. As per the sale deed, the petitioner has been shown to be a resident of Salekura village which otherwise he had left in the year 1984. Purchase of land at village Salekura by itself may not raise any suspicion but in the sale deed executed by the petitioner on 02.06.1997 shows that he is a resident of Salekura village. We have also further noticed that in the written statement filed by the petitioner before the Tribunal, he has not given his age both in the verification as well as in the affidavit. Therefore, the discrepancies and inconsistencies found cannot be ignored, particularly when the onus lie upon the petitioner under Section 9 of the Foreigners Act, 1946 to prove that he is an Indian citizen.

**[15.]** The petitioner has also heavily relied upon the affidavit sworn by him on 04.08.2014 stating that his father's name was Nayandi Miah and grandfather's name was Birbal Mia. That Nayandi Miah, Nayadi Miah and Nayandi is one and the same person. The facts, however, remains that the petitioner is required to show his linkage with either Nayandi Miah, Nayadi Miah or Nayadi to show that he is the son and that his father was a voter from village Salekura under Jania Constituency in 1966, 1970 & 1985. Therefore, without establishing his linkage with his so called father, the affidavit sworn by him on 04.08.2014 and exhibited as Exhibit-E has no purpose.

**[16.]** The petitioner has also exhibited a Certificate dated 27.01.2014 issued by the Gaonbura of Gagalmari village as Exhibit-D certifying that the petitioner was the son of late Nayandi Miah and a resident of village Gagalmari. However, apart from exhibiting the said document, the petitioner has not proved the document and its contents by examining the author of the certificate. Therefore, the same will have no probative value.

**[17.]** Let us now examine the authorities relied upon by the learned counsel for the petitioner. The learned counsel for the petitioner has referred to the case of Dadu alias Tulsi Das (*supra*), more particularly paragraph No. 23 of the said judgment. Under the said paragraph reference was made to the decision of the Constitution Bench of the Apex Court in *SP Sampath Kumar v. Union of India*, reported in (1987) 1 SCC 124 wherein, it was held that the basic principle of the rule of law which permeates every provision of the Constitution and which forms its very core and essence that the exercise of power by the executive or any other authority must not only be conditioned by the Constitution but also be in accordance with law and it is the judiciary which has to ensure that the law is observed and there is

compliance with the requirements of law on the part of the executive and other authorities.

**[18.]** From the above, what may be seen is that the case relates to exercise of judicial review by the judiciary to ensure that the rule of law is maintained and that the requirements of law is complied with by the executive and other authorities. The subject matter of the case in fact is with regard to the constitutionality of Section 32-A of the Narcotics Drugs & Psychotropic Substances Act, 1985. As such, this decision is found to be not applicable to the case at hand.

**[19.]** The second case relied upon by the learned counsel for the petitioner is the case of *S B Vohra & Ors* (supra), paragraph No. 30 of the said judgment in particular. Paragraph No. 30 of the said Judgment provides that judicial review is a highly complex and developing subject. It has its roots long back and its scope and extent varies from case to case. It is considered to be the basic feature of the Constitution. The Court in exercise of its power of judicial review would zealously guard the human rights, fundamental rights and the citizens' right of life and liberty as also many non-statutory powers of governmental bodies as regards their control over property and assets of various kinds which could be expended on building hospitals, roads etc. This decision again is on the power of the Court for judicial review for maintenance of rule of law. However, in the present case, we are concerned with review of the Judgment & Order passed by this Court and the same can only be exercised subject to fulfillment of any of the three condition laid down in an Order 47 Rule 1 & 2 of the CPC. Therefore, this decision referred by the petitioner is also found to be not applicable to the present case.

**[20.]** The learned counsel for the petitioner has further relied upon the case of *Board of Control for Cricket in India & Anr.* (supra), wherein, the Apex Court in the given facts of that case opined that the entertaining of the review application by the High Court cannot be said to be *ex facie* bad in law. Section 114 of the CPC empowers a court to review its order if the conditions precedents laid down therein are satisfied. Order 47, Rule 1 of the CPC provides for filing an application for review. Such an application for review would be maintainable not only upon discovery of a new and important piece of evidence or when there exists an error apparent on the face of the record but also if the same is necessitated on account of some mistake or for any other sufficient reason. Sufficient reason is wide enough to include a misconception of fact or law by a court or even an Advocate. An application for review may be necessitated by way of invoking the doctrine "*actus curiae neminem gravabit*", which means that the act of the Court shall prejudice no-one. However, in the present case, as already noticed in the preceding paragraphs, the petitioner in the review petition has failed to show that any of the three conditions set out in Order 47 Rule 1 are attracted. In other words, the petitioner apart from reiterating stand taken by him in the earlier proceeding has failed to point out any error or mistake which is apparent on the face of the record. Having failed to show that any of the pre-condition set out in Order 47 Rule 1 CPC exist, the authority relied upon cannot render any assistance to his case.

**[21.]** The learned counsel for the petitioner has also relied upon the case of *Patit Barman* (supra), which is rendered by a Single Bench of this Court. The matter relates to cancellation of settlement of fishery due to non-payment of revenue and therefore, having regard to the fact that the instant case is a review petition, the case relied upon is found to

be not applicable to the instant case.

**[22.]** Now coming to the authorities relied upon by the learned State counsel, it is seen that in the case of *Vedanta Limited* (supra), the Apex Court observed that an application for review of a judgment has to be filed within 30 days from the date of judgment or order i.e. sought to be reviewed in accordance with Rule 2 of Order 47 of the Supreme Court Rules, 2013. In the given facts of that case, no cogent grounds was furnished for the delay between 20 and 26 months by the two parties in filing their applications for review. One of the Judge who had passed the order which was sought to be reviewed had already retired when the first four review petitions were filed by one of the party and later, the other Judge had also retired when the second batch of review petitions were filed by the other party. The Supreme Court observed that such practice must be firmly disapproved to preserve the institutional sanctity of the decision-making of the Court. The review petitions were therefore dismissed both on limitation as well as merit. In the present case, we have also noticed that there is a delay of about 1161 days in filing the instant review petition and the petitioner has not given any explanation with sufficient cause or even any acceptable explanation for the delay. Although we have found the case to be fit to be dismissed on limitation but as may be noticed, we have examined the same on merit as well as set out in the preceding paragraph.

**[23.]** In the case of *Kamlesh Verma vs. Mayawati & Ors.* (supra), the Apex Court in deciding the said case held that the review will not be maintainable on a repetition of old and overruled argument and review proceedings cannot be equated with original hearing of the case amongst others. Paragraph Nos. 20, 20.1 & 20.2 may be abstracted hereunder:-

“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* and approved by this Court in *Moran Mar Basselios Catholicos v. Most Rev. Mar Poulose Athanasius AIR 1954 SC 526* 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.*

*20.2. 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 negatived."*

**[24.]** From the above abstract, it may be seen that unless any of the three conditions as set out in Order 47 Rule 1 of the Code of Civil Procedure are met, review will not be maintainable. Moreover, sufficient reason would mean a reason sufficient on grounds at least analogous or akin to those specified in the rule. The petitioner in the present case has failed to fulfill any of the conditions in order to persuade us to review the Order dated 07.11.2017.

**[25.]** In the case of *Central Council for Research in Ayurvedic Sciences & Anr.* (supra), although the case was as to whether the respondents therein were entitled to enhancement of their retirement age from 60 to 65 years as applicable to the AYUSH doctor working under the Ministry of AYUSH, the Apex Court formulated and laid down two cardinal principles of law governing exercise of extraordinary jurisdiction under Article 226 of the Constitution more

particularly when it comes to issue of Writ of Certiorari. Paragraph Nos. 51 & 52 which are relevant to the subject may be gainfully abstracted hereunder.

*“51. The first cardinal principle of law that governs the exercise of extraordinary jurisdiction under Article 226 of the Constitution, more particularly when it comes to the issue of a writ of certiorari is that in granting such a writ, the High Court does not exercise the powers of Appellate Tribunal. It does not review or reweigh the evidence upon which the determination of the inferior tribunal purports to be based. It demolishes the order which it considers to be without jurisdiction or palpably erroneous but does not substitute its own views for those of the inferior tribunal. The writ of certiorari can be issued if an error of law is apparent on the face of the record. A writ of certiorari, being a high prerogative writ, should not be issued on mere asking.*

*52. The second cardinal principle of exercise of extraordinary jurisdiction under Article 226 of the Constitution is that in a given case, even if some action or order challenged in the writ petition is found to be illegal and invalid, the High Court while exercising its extraordinary jurisdiction thereunder can refuse to upset it with a view to doing substantial justice between the parties. Article 226 of the Constitution grants an extraordinary remedy, which is essentially discretionary, although founded on legal injury. It is perfectly open for the writ court, exercising this flexible power to pass such orders as public interest dictates & equity projects. The legal formulations cannot be enforced divorced from the realities of the fact situation of the case. While administering law, it is to be tempered with equity and if the equitable situation demands after setting right the legal formulations, not to take it to the logical end, the High Court would be failing in its duty if it does not notice equitable consideration and mould the final order in exercise of its extraordinary jurisdiction. Any other approach would render the High Court a normal court of appeal which it is not.”*

**[26.]** From the above abstract, it may be seen that the Apex Court has held that a Writ

of Certiorari being a high prerogative writ should not be issued on mere asking. The High Court when it comes to issuance of Writ of Certiorari does not exercise the powers of appellate Tribunal. It does not review or reweigh the evidence upon which the determination of the interior Tribunal purports to be based. Only when the order is passed without jurisdiction or is culpably erroneous can the High Court exercise its powers but does not substitute its own views with those of the Tribunal.

**[27.]** Coming to the present case, it may be seen that this Court in examining the information rendered by the inferior Tribunal had only observed the principles of law laid down by the Apex Court as abstracted above. In other words, this Court did not find any error committed by the Tribunal in rendering its opinion dated 21.09.2015 in FT Case No. 87/2015.

**[28.]** The Full Bench decision of this Court in *Moslem Mondal & Ors.* (Supra) has been relied upon by the learned counsel for the petitioner to contend that minor discrepancies in the age cannot be fatal to the case projected by the petitioner and that the same can be only overlooked but however, the fact remains that even if one is to overlook the age discrepancies, the documents which have been exhibited by the petitioner were not proved in accordance with law and are therefore not admissible in evidence. This is what was held by this Court in the writ petition. The Full Bench of this Court by referring to a number of Apex Court's decisions observed amongst others that a review bench while hearing the review petition cannot re-appreciate the evidence and reject the findings of the earlier bench, which otherwise is within the domain of the appellate court. In other words, a review petition cannot be allowed to be an appeal in disguise.

**[29.]** In the case of *S Madhusudhan Reddy* (supra), the Apex Court by referring to various decisions of the same Court on the subject reiterated the principles governing or the grounds available for filing a review application as set out in Order 47 of the CPC. The Apex Court observed that it was a settled law that in the exercise of review jurisdiction, the Court cannot re-appreciate the evidence to arrive at a different conclusion even if two views are possible in the matter. Further, 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. The principle laid down by the Apex Court squarely applies to the present case. The petitioner in the present review petition has failed to show any error that is apparent on the face of the record or that some new documents or important matter or evidence which after exercise of due diligence was not within his knowledge could not be produced by him at the time when the order sought to be reviewed was passed. There is also no sufficient reason or reasons shown to compel this Court to review the Order dated 07.11.2017.

**[30.]** Thus, upon due consideration of the review petition in its entirety, we find that the grounds for review raised by the petitioner has already been duly considered and answered by this Court while passing the Order dated 07.11.2017 and therefore, under the given facts and circumstances, we find no reason to allow the review petition.

**[31.]** This review petition is accordingly dismissed on limitation as well as on merit.

**[32.]** The interim order passed earlier on 18.02.2022 is accordingly stands vacated/recalled. The bailor stands discharged.

**[33.]** The records of F.T. Case No. 87/2014 (State of Assam Vs. Rahimuddin) be returned to the Foreigners Tribunal-I, Barpeta forthwith along with a copy of this order. Copy of this order also be forwarded to the Superintendent of Police (Border), Barpeta for its necessary information.

**JUDGE**

**JUDGE**

**Comparing Assistant**