

(2019) 12 CHH CK 0132
In the Chhattisgarh High Court
Case No : Review Petition No. 116 Of 2019

Cement Corporation Of India Ltd.

APPELLANT

Vs

Narayan Prasad And Ors

RESPONDENT

Date of Decision : 03-12-2019

Acts Referred:

Constitution Of India, 1950 — Article 226
High Court Of Chhattisgarh Rules, 2007 — Rule 90(2)
Code Of Civil Procedure, 1908 — Order 47 Rule 1
National Highways Act, 1956 — Section 3G

Citation : (2019) 12 CHH CK 0132

Hon'ble Judges : Prashant Kumar Mishra, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

1. The matter is taken up for consideration in the chamber under provisions of sub-rule (2) of Rule 90 under Chapter VI of the High Court of Chhattisgarh Rules, 2007.
2. The Review Petitioner (in short "the petitioner"), who was not a party in WPC No.44/2019, seeks review of the order dated 09.01.2019 passed in WPC No.44/2019 purely on the ground that, in fact, the land in question belongs to the review petitioner yet the award has been passed in favour of the writ petitioner.
3. After going through the record of the writ petition it is apparent that the award in question has been passed in favour of the writ petitioner and hence this Court without entering into the merits of the case directed the respondent-Land Acquisition Officer to make payment of the award to the writ petitioner.
4. A perusal of the record of the writ petition would reveal that the writ petitioner was the recorded owner of the lands, which were acquired under the National Highways Act, 1956 (for brevity "the Act, 1956). Compensation for acquisition of writ petitioner's land was assessed under Section 3G of the Act, 1956 and

thereafter notice was issued to the writ petitioner for receiving the amount of compensation. Despite notice, writ petitioner was not disbursed the compensation, therefore, the writ petition was filed. At no point of time, the present petitioner/ CCI was a party to the acquisition proceedings nor any award has been passed in its favour. The present petitioner has never raised any objection before the Land Acquisition Officer or before the Authorities who were performing duties under the Act, 1956.

5. The present petitioner not being a party to the acquisition proceedings, its contention in this review application that it owns the disputed land cannot be examined. The petitioner herein is seeking liberty to re-argue the writ petition which is not permissible in law.

6. There is no other ground pointed out by the petitioner showing any manifest error on the record and has not further brought into the notice, any new facts, which could not be produced earlier despite diligent efforts made by the petitioner. It is well settled principles of law that the 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 of the Code of Civil Procedure. Even in exercise of review jurisdiction by the High Court under Article 226 of the constitution, the petitioner has not produced any ground for review.

7. It appears that the petitioner by presentation of this review petition seeks an opportunity to argue the entire case afresh on merits under the garb of the review petition, which is not permissible and tenable in law.

8. It is well settled principle of law that under the garb of review petition, the petitioner should not be permitted to argue the entire case afresh, which would amount to converting the review petition into an appeal and the same is not sustainable in law. (See: *Meera Bhanjan v. Smt. Nirmal Kumar Chowdhary*, AIR 1995 SC 455. *Lily Thomas etc. v. Union of India and others*, AIR 2000 SC 1650, *Ajit Kumar Rath v. State of Orissa and others*, AIR 2000 SC 85, *Government of T.N. & Others v. M. Ananchu Asari and others*, (2005) 2 SCC 332, and *Kerla State Electricity Board v. Hitech Electrochemicsm & Hydropower Ltd. And others*, (2005) 6 SCC 651.

9. As a sequel, the review petition, sans substratum is liable to be and is hereby dismissed.