

(2022) 03 J&K CK 0026
In the Jammu And Kashmir High Court
Case No : Review Petition No. 126 Of 2021

Ghulam Qadir Wani & Anr

APPELLANT

Vs

J&K Special Tribunal & Ors

RESPONDENT

Date of Decision : 08-03-2022

Acts Referred:

Code Of Civil Procedure, 1908 — Section 114, Order 47 Rule 1

Citation : (2022) 03 J&K CK 0026

Hon'ble Judges : Rajnesh Oswal, J

Bench : Single Bench

Advocate : Furqan Sofi, Hamza Prince

Final Decision : Dismissed

Judgement

Rajnesh Oswal, J

1. The petitioners are seeking the review of the judgment dated 10th March 2021 by virtue of which the writ petition filed by the petitioners was dismissed.

2. The only ground on which the present review petition has been filed is that the petitioners had a locus standi to file the writ petition as they had a right to seek enforcement of the statute but this court has not considered the said issue. It is further stated that the same amounts to error apparent on the face of the record.

3. Learned counsel for the petitioners reiterates the submissions made in the review petition.

4. Heard and perused the record.

5 The perusal of the judgment reveals that this court has already considered the issue and has returned a finding on the same.

6. In terms of Section 114 read with Order 47 Rule 1 CPC, review of judgment or order is permissible only on the following grounds:-

(i) Discovery of new and important matter for evidence which, after the exercise

of due diligence was not within the knowledge of the petitioner and/or could not be produced by him.

(ii) Mistake or error apparent on the face of record

(iii) or any other sufficient reason.

7. So far as scope of "review" is concerned, the Apex Court in *Inderchand Jain v. Motilal*, (2009) 14 SCC 663 has held as under:

An application for review would lie inter alia when the order suffers from an error apparent on the face of the record and permitting the same to continue would lead to failure of justice. In *Rajendra Kumar v. Rambai* [AIR 2003 SC 2095] this Court held:

"6. The limitations on exercise of the power of review are well settled. The first and foremost requirement of entertaining a review petition is that the order, review of which is sought, suffers from any error apparent on the face of the order and permitting the order to stand will lead to failure of justice. In the absence of any such error, finality attached to the judgment/order cannot be disturbed."

9. The power of review can also be exercised by the court in the event discovery of new and important matter or evidence takes place which despite exercise of due diligence was not within the knowledge of the applicant or could not be produced by him at the time when the order was made. An application for review would also lie if the order has been passed on account of some mistake. Furthermore, an application for review shall also lie for any other sufficient reason.

10. It is beyond any doubt or dispute that the review court does not sit in appeal over its own order. A rehearing of the matter is impermissible in law. It constitutes an exception to the general rule that once a judgment is signed or pronounced, it should not be altered. It is also trite that exercise of inherent jurisdiction is not invoked for reviewing any order.

11. Review is not appeal in disguise. In *Lily Thomas v. Union of India* [(2000) 6 SCC 224] this Court held:

"56. It follows, therefore, that the power of review can be exercised for correction of a mistake but not to substitute a view. Such powers can be exercised within the limits of the statute dealing with the exercise of power. The review cannot be treated like an appeal in disguise."

8. The contention sought to be raised by the petitioners through the medium of present review petition stands already considered by this court and the present review application is nothing but an appeal in disguise.

9. Viewed thus, there is no merit in this review petition. The same is dismissed.