
(2020) 02 CHH CK 0111
In the Chhattisgarh High Court
Case No : Review Petition No. 252 Of 2019

Kanti Mishra And Ors

APPELLANT

Vs

Rajendra Shankar Shukla And Ors

RESPONDENT

Date of Decision : 13-02-2020

Acts Referred:

High Court Of Chhattisgarh Rules, 2007 — Rule 90(2)
Code Of Civil Procedure, 1908 — Order 47 Rule 1

Citation : (2020) 02 CHH CK 0111

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 petition has been preferred by the petitioners to seek review of the judgment dated 14.11.2019 passed in SA No.782 of 1998 on the

ground that there is no evidence of Rajendra Shankar Shukla being heir of Late Brijrani Bai except opening line of his deposition that "She was his

Buwa" - paternal aunt without particulars of father and brothers of Late Brijrani Bai. Such statement does not prove him heir of Brijrani Bai hence

the concurrent findings of both the Courts below are perverse in the absence of pleading and proof thereof. According to the petitioners, the said Will

and heir-ship of Rajendra Shankar Shukla not having been pleaded and proved the eviction suit between landlord and tenant has abated on death of

Late Brijrani Bai.

3. On going through the record of second appeal, it is evident that this Court

after hearing learned counsel appearing for both the parties decided the issue by delivering a detailed judgment and by placing reliance upon the decisions rendered by the Supreme Court. Moreover, no question of law was framed, on the point now raised, at the time of admitting the second appeal. It is important to bear in mind that the suit for eviction was filed on 14.11.1971 i.e., about 48 years ago.

4. 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.

5. It appears that the petitioners by presentation of this review petition seek 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.

6. 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 convert 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

Electrothermicism & Hydropower Ltd. and others, (2005) 6 SCC 651.

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