

**(2021) 03 MAN CK 0011**

**In the Manipur High Court**

**Case No : Review Petition No. 1 Of 2021**

M/S B.L.L. Agency Through Its Proprietor

APPELLANT

Vs

State Of Manipur

RESPONDENT

**Date of Decision : 18-03-2021**

**Acts Referred:**

Code Of Civil Procedure, 1908 — Order 47 Rule 1  
Supreme Court Rules, 1966 — Order 40 Rule 1, Order 40 Rule 5  
Constitution Of India, 1950 — Article 32, 136, 137, 145

**Citation : (2021) 03 MAN CK 0011**

**Hon'ble Judges : Ls Jamir, J;Ahanthem Bimol Singh, J**

**Bench : Division Bench**

**Advocate : Aparna Bhat, Lenin Hijam**

**Final Decision : Dismissed**

## Judgement

A.Bimol Singh.,J

[1] Heard Ms. Arpana Bhat, learned counsel appearing for the petitioners and Mr. Lenin Hijam, learned Addl. AG appearing for the respondents.

[2] The present review petition had been filed seeking for review of the judgment and order dated 04.11.2020 passed by this Court in W.A. No. 26 of 2018, W.A. No. 27 of 2018, W.P. (C) No. 28 of 2018, W.P. (C) No. 44 of 2018, W.P. (C) No. 995 of 2018 and W.P. (C) No. 1062 of 2018.

[3] The facts of the present case in a nutshell is that the Ministry of Women and Child Development, Government of India, allocated food grains and micro-nutrients to the State Governments and Union Territories under the Wheat Based Nutrition Program (WBNP) for the beneficiaries such as malnourished children and lactating mothers. The allocation of the food grains and micronutrients under the WBNP is done periodically in every quarter of a year and the period of one year is divided into four quarters comprising of 3 months each. As per the guidelines issued by the Government, the lifting and distribution of food grains

allocated for a particular quarter is to be carried out within three months or within the particular quarter of the year. If for any reason, the State Government failed to lift and distribute the food grains under WBNP, the quota of food grains allocated to the State for that particular quarter will lapse, resulting in depriving the beneficiaries to get their share of food grains and other Micronutrient entitled to them.

[4] For the purpose of lifting of such food grains and micronutrients from the various depots of the Food Corporation of India (FCI) and for transportation to various offices of the District Program Officer/ Child Development Project Officers of the Social Welfare Department for further distribution of the food grains and the micronutrients to the beneficiaries, the Director of Social Welfare Department, Government of Manipur, issued a Notice Inviting Tender (NIT) dated 22.06.2017 inviting tenders from eligible contractors.

[5] The period of the contract work as mentioned in the said NIT was for a period of one year with option of extension for a further period of one year at the sole discretion of the Government without any escalation in rate from the date of the acceptance letter or such later date as may be decided by the Director or an officer authorized by the Government.

[6] Pursuant to the said NIT, a number of eligible contractors including the present review petitioners submitted their bids. The technical bids as well as the financial bids submitted by the contractors were opened on 07.09.2019 and the financial bids submitted by the review petitioners were found to be the lowest in respect of Routes-I, II, V, VI, VII & IX.

[7] All the financial bids submitted by the contractors were considered by a Higher Tender Committee (HTC) in its meeting held on 16.09.2017 along with justifications of the price bids submitted by the contractors and also in the light of the analysis done by the Social Welfare Department. However, the HTC found the bids as not acceptable and accordingly, made a recommendation to conduct new tender to discover reasonable rates for transportation.

[8] With a view to continue lifting of the food grains and micronutrient from the FCI depots and transportation to various offices of the Social Welfare Department for further distribution of the food grains to the entitled beneficiaries pending finalization of the tender process, the State Government issued orders allowing some of the contractors to carry out the transportations as an interim arrangement. Subsequently, the orders allowing the transportation as an interim arrangement were canceled by the Government.

Having been aggrieved by the action of the State Government in connection with the tender process, some of the contractors including the present review petitioners filed nine writ petitions before this Court.

[9] The said batch of writ petitions were heard and disposed of by a learned Single Judge of this Court by a common judgment and order dated 20.06.2018.

In the said judgment & order, the learned Single Judge held that the end of justice will be met if the process of tender is allowed to be continued afresh from the stage of opening of the technical and financial bids by the Department. The learned Single Judge also gave several directions as to how the process of tender is to be carried out. One of the directions given by the learned Single Judge at para (20) (h) of the judgment & order is that the period of contract shall be for one year as stipulated in the terms and conditions of NIT with effect from the date of signing the agreement or 21.07.2018 whichever is earlier.

The operative portions of the said judgment and order are as under:-

"Having heard the learned counsel appearing for the parties; having considered their rival contentions made in crossed writ petitions and keeping in mind the fact that the WBNP (rice) and micronutrient must reach the needy persons regularly in time, this court is of the view that the end of justice will be met if the process of tender is allowed to be continued afresh from the stage where and after the technical and financial bids having been opened by the Department.

"[20] In view of the above and for the reasons stated hereinabove, all the writ petitions are disposed of with the following directions:

(a) The State Government and in particular, the Department of Social Welfare, Government of Manipur shall constitute a High Power Committee, within a week from today, consisting of persons who are well versed with the matter relating to tender;

(b) The High Power committee, constituted as per direction (a) above and before it proceeds further with the tender process, shall get itself familiar with the terms and conditions mentioned in the NIT and also the law laid down by the Hon<sup>ble</sup> Supreme Court in its various decisions relating to award of contracts in consultation with the Law Department or the learned Advocate General, Manipur.

(c) The State Government and in particular, the Department of Social Welfare shall take a decision as to whether the condition as prescribed in para 3

(D) is an essential condition of eligibility as regards furnishing of bank guarantee with reference to the purpose for which the said condition has been incorporated therein and the reasons thereof be assigned by it.

(d) The High Power Committee shall examine and consider minutely the relative merits of the rates quoted by all the qualified bidders, with their respective justifications, taking into account all relevant factors as mentioned hereinabove and take a final decision thereafter on merits, for which cogent reasons shall be assigned by it;

(e) The High Power Committee is free to take any decision, on merits with cogent reasons, on issues arising out of the NIT without being influenced by any of the observations made by this court;

(f) The High Power Committee must apply its mind and must sincerely

endeavour, at its best level, to ensure that the tender process is completed in time as directed by this court and to see that there is no room left for any of the parties to approach this court again questioning the tender process;

(g) The whole exercise as per direction (a) to (f) above shall be completed within three weeks after the expiry of a week as aforesaid without fail and all formalities including signing of agreements shall be completed on or before 21-07-2018;

(h) The period of contract shall be for one year as stipulated in the terms and conditions of NIT with effect from the date of signing the agreements or 21-07-2018 whichever is earlier;

(i) On the expiry of six months from the date of signing the agreements or from 21-07-2018 whichever is earlier, the Department of Social Welfare shall take a decision as to whether the contract be extended for another year and if yes, it shall start taking appropriate steps towards it and if not, it shall get ready for issuing NIT for the next year and on the expiry of nine months therefrom, NIT shall immediately be issued by the Department of Social Welfare, Government of Manipur so as to keep a continuity as regards the transportation of WBNP (rice) and Micronutrient."

[10] The aforesaid judgment and order of the learned Single Judge was challenged by some of the contractors by filing writ appeal before this Court, however, the review petitioner did not challenge the judgment and order of the learned Single Judge and accepted the same.

[11] During the pendency of the writ appeals and on the consensus among the parties in the pending writ appeals, this Court passed an interim order on 19.12.2018 in W.A. No. 27 of 2018, W.A. No. 26 of 2018, W.A. No. 28 of 2018 and MC(WA) No. 54 of 2018. In the said interim order, this Court after taking into consideration the perishable nature of the food grains and the consensus arrived at among the parties, allowed the review petitioners and another contractor to lift and transport the food grains purely as a temporary arrangement pending final adjudication of the appeals.

[12] In compliance with the interim order dated 19.12.2018 passed by this Court in the said writ appeals and pursuant to the Government's letter dated 11.01.2019 conveying approval to appoint three contractors including the present review petitioners as temporary transport contractors, three agreement were signed between the Government and the said three transport contractors on 17.01.2019 and 14.01.2019 allowing them to transport the food grains.

On the basis of the aforesaid interim order dated 19.12.2018 passed by this Court and the agreement executed between the said three contractors and the Government, the present two review petitioners and one other contractors have been carrying out the contract work of transporting WBNP (rice) and Micronutrients in all the nine routes as notified in the NIT dated 22.06.2017

continuously for more than two years.

[13] During the pendency of the said writ appeals and while the two review petitioners and another contractors were executing the contract work, the State Government and the Director (Social Welfare), Manipur, filed an application praying for allowing the State Government to issue fresh NIT for appointment of new and competent transport contractors for transportation of WBNP (rice) and Micronutrients for the subsequent years since the validity of the contract period of one year, as notified in the NIT dated 22.06.2017, had expired long back.

[14] The said miscellaneous application was jointly heard along with the four pending writ appeals and 2 connected writ petitions and after hearing the rival submissions advanced by the learned counsel appearing for the parties and after perusal of the records, this Court finds that on the consent of the parties in the batch of writ appeals including the present review petitioners, this Court passed an interim order on 19.12.2018 allowing the present two review petitioners and another contractors to execute the contract work of transportation of food grains under the Wheat Base Nutrition Program as notified in the NIT dated 22.06.2017.

In compliance with the said interim order passed by this Court, the State Government issued acceptance letter dated 11.01.2019 conveying approval to appoint the present two review petitioners and another contractor as contractors to execute the said contract work of transportation. Thereafter, separate agreements containing the terms and conditions for execution of the said contract work were executed between the Government and the said three contractors, including the review petitioners, on 14.01.2019 and 17.01.2019. After completing the necessary formalities, the said three contractors have been executing the contract work of transportation of food grains under the WBNP for more than two years, even though the period of contract was only for one year. As the contract work for transportation of food grains under the WBNP as notified in the NIT had already been carried out and executed for more than two years, we were of the considered view that the issue raised in the writ appeals no longer survives and the batches of cases have become infructuous. Accordingly, without deciding the cases on merit, we dispose of the batches of writ appeals by directing the Government to take up immediate steps for issuing fresh NIT for transportation of food grains and micronutrients under WBNP for the subsequent years and to complete the process of tender within twenty days. We also directed that pending completion of the tender process, the existing arrangement for transportation of food grains under the WBNP should continue.

[15] Ms. Arpana Bhat, learned counsel appearing for the review petitioners submitted that without considering the detailed submissions made by the review petitioners in their written arguments and without giving any reasons or grounds, the comprehensive directions given by the learned Single Judge in his judgment and order had been set aside by this Court by the judgment and order impugned herein, thereby, adversely affecting the rights of the review petitioners.

[16] It is also submitted by the learned counsel that without taking into consideration that the petitioners were lowest bidders, had given a detail explanation and justification for their pricing and had fulfill all the conditions of the NIT, this Court disposed of the writ appeals as being infructuous, thereby adversely affecting the rights of the petitioners.

[17] It may be pointed out here that after taking into account the subsequent event that occurred after filing of the batch of writ appeals as stated herein above, we were of the considered view that issue raised in the batch of writ appeals no longer survives specially when the comprehensive directions given by the learned Single Judge confined only to completion of the tender proceedings for awarding the contract work which has duration of only one year. Accordingly, we disposed of the said writ appeals as being infructuous without deciding any of the issues raised therein.

[18] We may referred to the judgment rendered by the Hon'ble Supreme Court in the case of "Kamlesh Verma vs. Mayawati and Others" reported in (2013) 8 SCC 320 wherein the Hon'ble Apex Court, after considering a catena of decisions, laid down the principles regarding maintainability of review petitions. The relevant paragraphs are as under:-

"12. This Court has repeatedly held in various judgments that the jurisdiction and scope of review is not that of an appeal and it can be entertained only if there is an error apparent on the face of the record. A mere repetition through different counsel, of old and overruled arguments, a second trip over ineffectually covered grounds or minor mistakes of inconsequential import are obviously insufficient. This Court in *Sow Chandra Kante v. Sk. Habib* held as under: (SCC p.675, para 1)

"1. Mr Daphtary, learned counsel for the petitioners, has argued at length all the points which were urged at the earlier stage when we refused special leave thus making out that a review proceeding virtually amounts to a rehearing. May be, we were not right in refusing special leave in the first round; but, once an order has been passed by this Court, a review thereof must be subject to the rules of the game and cannot be lightly entertained. A review of a judgment is a serious step and reluctant resort to it is proper only where a glaring omission or patent mistake or like grave error has crept in earlier by judicial fallibility. A mere repetition, through different counsel, of old and overruled arguments, a second trip over ineffectually covered ground or minor mistakes of inconsequential import are obviously insufficient. The very strict need for compliance with these factors is the rationale behind the insistence of counsel's certificate which should not be a routine affair or a habitual step. It is neither fairness to the court which decided nor awareness of the precious public time lost what with a huge backlog of dockets waiting in the queue for disposal, for counsel to issue easy certificates for entertainment of review and fight over again the same battle which has been fought and lost. The Bench and the Bar, we are sure, are jointly concerned in the conservation of judicial time for maximum use. We regret to say that this case is

typical of the unfortunate but frequent phenomenon of repeat performance with the review label as passport. Nothing which we did not hear then has been heard now, except a couple of rulings on points earlier put forward. May be, as counsel now urges and then pressed, our order refusing special leave was capable of a different course. The present stage is not a virgin ground but review of an earlier order which has the normal feature of finality."

"13. In a criminal proceeding, review is permissible on the ground of an error apparent on the face of the record. A review proceeding cannot be equated with the original hearing of the case. In *Northern India Caterers (India) Ltd. v. Lt. Governor of Delhi*, this Court, in paras 8 & 9 held as under: (SCC pp. 171-72)

"8. It is well settled that a party is not entitled to seek a review of a judgment delivered by this Court merely for the purpose of a rehearing and a fresh decision of the case. The normal principle is that a judgment pronounced by the Court is final, and departure from that principle is justified only when circumstances of a substantial and compelling character make it necessary to do so: *Sajjan Singh v. State of Rajasthan*. For instance, if the attention of the Court is not drawn to a material statutory provision during the original hearing, the Court will review its judgment: *Girdhari Lal Gupta v. D.N. Mehta*. The Court may also reopen its judgment if a manifest wrong has been done and it is necessary to pass an order to do full and effective justice: *O.N. Mohindroo v. District Judge, Delhi*. Power to review its judgments has been conferred on the Supreme Court by Article 137 of the Constitution, and that power is subject to the provisions of any law made by Parliament or the rules made under Article 145. In a civil proceeding, an application for review is entertained only on a ground mentioned in Order 47 Rule 1 of the Code of Civil Procedure, and in a criminal proceeding on the ground of an error apparent on the face of the record (Order 40 Rule 1, Supreme Court Rules, 1966). But whatever the nature of the proceeding, it is beyond dispute that a review proceeding cannot be equated with the original hearing of the case, and the finality of the judgment delivered by the Court will not be reconsidered except "where a glaring omission or patent mistake or like grave error has crept in earlier by judicial fallibility?": *Sow Chandra Kante v. Sk. Habib*;

"9. Now, besides the fact that most of the legal material so assiduously collected and placed before us by the learned Additional Solicitor General, who has now been entrusted to appear for the respondent, was never brought to our attention when the appeals were heard, we may also examine whether the judgment suffers from an error apparent on the face of the record. Such an error exists if of two or more views canvassed on the point it is possible to hold that the controversy can be said to admit of only one of them. If the view adopted by the Court in the original judgment is a possible view having regard to what the record states, it is difficult to hold that there is an error apparent on the face of the record."

"14. Review of the earlier order cannot be done unless the court is satisfied that material error, manifest on the face of the order, undermines its soundness or

results in miscarriage of justice. This Court, in Col. Avtar Singh Sekhon v. Union of India held as under: (SCC p. 566, para 12)

"12. A review is not a routine procedure. Here we resolved to hear Shri Kapil at length to remove any feeling that the party has been hurt without being heard. But we cannot review our earlier order unless satisfied that material error, manifest on the face of the order, undermines its soundness or results in miscarriage of justice. In Sow Chandra Kante v. Sk. Habib this Court observed: (SCC p. 675, para 1)

"1. ..."A review of a judgment is a serious step and reluctant resort to it is proper only where a glaring omission or patent mistake or like grave error has crept in earlier by judicial fallibility.... The present stage is not a virgin ground but review of an earlier order which has the normal feature of finality."

"15. An error which is not self-evident and has to be detected by a process of reasoning can hardly be said to be an error apparent on the face of the record justifying the Court to exercise its power of review. A review is by no means an appeal in disguise whereby an erroneous decision is re-heard and corrected, but lies only for patent error. This Court in Parsion Devi v. Sumitri Devi held as under: ( SCC pp. 718-19, para 7-9)

"7. It is well settled that review proceedings have to be strictly confined to the ambit and scope of Order 47 Rule 1 CPC. In Thungabhadra Industries Ltd. v. Govt. of A.P. this Court opined: (AIR p. 1377, para 11)

"11. What, however, we are now concerned with is whether the statement in the order of September 1959 that the case did not involve any substantial question of law is an "error apparent on the face of the record". The fact that on the earlier occasion the Court held on an identical state of facts that a substantial question of law arose would not per se be conclusive, for the earlier order itself might be erroneous. Similarly, even if the statement was wrong, it would not follow that it was an "error apparent on the face of the record", for there is a distinction which is real, though it might not always be capable of exposition, between a mere erroneous decision and a decision which could be characterised as vitiated by "error apparent". A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected, but lies only for patent error."

"8. Again, in Meera Bhanja v. Nirmala Kumari Choudhury while quoting with approval a passage from Aribam Tuleshwar Sharma v. Aribam Pishak Sharma this Court once again held that 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.

"9. Under Order 47 Rule 1 CPC a judgment may be open to review inter alia if there is a mistake or an error apparent on the face of the record. An error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of the record justifying the court to



exercise its power of review under Order 47 Rule 1 CPC. In exercise of the jurisdiction under Order 47 Rule 1 CPC it is not permissible for an erroneous decision to be "reheard and corrected". A review petition, it must be remembered has a limited purpose and cannot be allowed to be "an appeal in disguise". (emphasis in original)

"16. Error contemplated under the Rule must be such which is apparent on the face of the record and not an error which has to be fished out and searched. It must be an error of inadvertence. The power of review can be exercised for correction of a mistake but not to substitute a view. The mere possibility of two views on the subject is not a ground for review. This Court, in *Lily Thomas v. Union of India* held as under: (SCC pp. 250-53, para 54, 56 & 58)

"54 Article 137 empowers this Court to review its judgments subject to the provisions of any law made by Parliament or any rules made under Article 145 of the Constitution. The Supreme Court Rules made in exercise of the powers under Article 145 of the Constitution prescribe that in civil cases, review lies on any of the grounds specified in Order 47 Rule 1 of the Code of Civil Procedure which provides:

"1. Application for review of judgment.- (1) Any person considering himself aggrieved -

(a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred,

(b) by a decree or order from which no appeal is allowed, or

(c) by a decision on a reference from a Court of Small Causes, and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the court which passed the decree or made the order.

Under Order 40 Rule 1 of the Supreme Court Rules no review lies except on the ground of error apparent on the face of the record in criminal cases. Order 40 Rule 5 of the Supreme Court Rules provides that after an application for review has been disposed of no further application shall be entertained in the same matter.

"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. The mere possibility of two views on the subject is not a ground for review. Once a review petition is dismissed no further petition of review can be entertained. The rule of law of

following the practice of the binding nature of the larger Benches and not taking different views by the Benches of coordinated jurisdiction of equal strength has to be followed and practised. However, this Court in exercise of its powers under Article 136 or Article 32 of the Constitution and upon satisfaction that the earlier judgments have resulted in deprivation of fundamental rights of a citizen or rights created under any other statute, can take a different view notwithstanding the earlier judgment.

"58. Otherwise also no ground as envisaged under Order 40 of the Supreme Court Rules read with Order 47 of the Code of Civil Procedure has been pleaded in the review petition or canvassed before us during the arguments for the purposes of reviewing the judgment in Sarla Mudgal case. It is not the case of the petitioners that they have discovered any new and important matter which after the exercise of due diligence was not within their knowledge or could not be brought to the notice of the Court at the time of passing of the judgment. All pleas raised before us were in fact addressed for and on behalf of the petitioners before the Bench which, after considering those pleas, passed the judgment in Sarla Mudgal case. We have also not found any mistake or error apparent on the face of the record requiring a review. Error contemplated under the rule must be such which is apparent on the face of the record and not an error which has to be fished out and searched. It must be an error of inadvertence. No such error has been pointed out by the learned counsel appearing for the parties seeking review of the judgment. The only arguments advanced were that the judgment interpreting Section 494 amounted to violation of some of the fundamental rights. No other sufficient cause has been shown for reviewing the judgment. The words "any other sufficient reason appearing in Order 47 Rule 1 CPC? must mean "a reason sufficient on grounds at least analogous to those specified in the rule? as was held in *Chhajju Ram v. Neki* and approved by this Court in *Moran Mar Baselios Catholicos v. Most Rev. Mar Poulouse Athanasius*. Error apparent on the face of the proceedings is an error which is based on clear ignorance or disregard of the provisions of law. In *T.C. Basappa v. T. Nagappa*, this Court held that such error is an error which is a patent error and not a mere wrong decision. In *Hari Vishnu Kamath v. Ahmad Ishaque*, it was held: (AIR p. 244, para 23)

"23. ...[I]t is essential that it should be something more than a mere error; it must be one which must be manifest on the face of the record. The real difficulty with reference to this matter, however, is not so much in the statement of the principle as in its application to the facts of a particular case. When does an error cease to be mere error, and become an error apparent on the face of the record? The learned counsel on either side were unable to suggest any clear-cut rule by which the boundary between the two classes of errors could be demarcated.

Mr Pathak for the first respondent contended on the strength of certain observations of Chagla, C.J. in - *Batuk K. Vyas v. Surat Borough Municipality* that no error could be said to be apparent on the face of the record if it was not self-evident and if it required an examination or argument to establish it. This test

might afford a satisfactory basis for decision in the majority of cases. But there must be cases in which even this test might break down, because judicial opinions also differ, and an error that might be considered by one Judge as self-evident might not be so considered by another. The fact is that what is an error apparent on the face of the record cannot be defined precisely or exhaustively, there being an element of indefiniteness inherent in its very nature, and it must be left to be determined judicially on the facts of each case.?

Therefore, it can safely be held that the petitioners have not made out any case within the meaning of Article 137 read with Order 40 of the Supreme Court Rules and Order 47 Rule 1 CPC for reviewing the judgment in Sarla Mudgal case. The petition is misconceived and bereft of any substance."

"17. In a review petition, it is not open to the Court to re-appreciate the evidence and reach a different conclusion, even if that is possible. Conclusion arrived at on appreciation of evidence cannot be assailed in a review petition unless it is shown that there is an error apparent on the face of the record or for some reason akin thereto. This Court, in Kerala SEB v. Hitech Electrothermics & Hydropower Ltd. held as under: (SCC p. 656, para 10)

"10. ....In a review petition it is not open to this Court to reappreciate the evidence and reach a different conclusion, even if that is possible. The learned counsel for the Board at best sought to impress us that the correspondence exchanged between the parties did not support the conclusion reached by this Court. We are afraid such a submission cannot be permitted to be advanced in a review petition. The appreciation of evidence on record is fully within the domain of the appellate court. If on appreciation of the evidence produced, the court records a finding of fact and reaches a conclusion, that conclusion cannot be assailed in a review petition unless it is shown that there is an error apparent on the face of the record or for some reason akin thereto. It has not been contended before us that there is any error apparent on the face of the record. To permit the review petitioner to argue on a question of appreciation of evidence would amount to converting a review petition into an appeal in disguise."

"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., held as under: (SCC pp. 504-505, para 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 negatived. 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 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.

12. When a prayer to appoint an arbitrator by the applicant herein had been made at the time when the arbitration petition was heard and was rejected, the same relief cannot be sought by an indirect method by filing a review petition. Such petition, in my opinion, is in the nature of "second innings? which is impermissible and unwarranted and cannot be granted."

"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 of 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" has been interpreted in Chhajju Ram v. Neki and approved by this Court in Moran Mar Basselios Catholicos v. Most Rev. Mar Poulouse Athanasius 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."

[19] After hearing the submissions advanced by the learned counsel for the review petitioners and after perusal of the grounds raised by the petitioners in their review petition, and also keeping in view the principles laid down by the Apex Court in the case of "Kamlesh Verma Vs. Mayawati and Others" (Supra), regarding maintainability of the review petition, we do not find any grounds or justification for reviewing our orders specially when the petitioners failed to point out any apparent error in our judgment and order.

Accordingly, we dismissed the present review petition as being devoid of merit, however, without any costs.