

(2014) 10 MAD CK 0137

In the Madras High Court

Case No : Review Application No. 65 of 2014 in W.A. No. 860 of 2013

R. Venkatesan

APPELLANT

Vs

The Secretary to Government

RESPONDENT

Date of Decision : 16-10-2014

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 47 Rule 1

Citation : (2014) 10 MAD CK 0137

Hon'ble Judges : N. Paul Vasantha Kumar, J;K. Ravichandra Babu, J

Bench : Division Bench

Judgement

K. Ravichandrabaabu, J.—This review application is filed seeking review of the order made in Writ Appeal No. 860 of 2013 dated 10.12.2013.

2. Mr.C.Prakasam, learned counsel for the review applicant urged the contentions which were already urged and considered by this Court while disposing of the above writ appeal. In effect, the contentions raised in this review application are nothing but re-agitating the matter once again on merits, which is not the scope of review jurisdiction.

3. At this juncture, it is useful to refer to the recent decision of the Hon'ble Supreme Court reported in Kamlesh Verma Vs. Mayawati and Others, , wherein in paragraph-12, it has been observed as follows:-

""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.""

It is further held in the above decision that the review proceedings cannot be equated with the original proceedings of the case. Again in paragraphs 18 & 19 of the said decision, it has been observed as follows:-

""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 Limited through its President Vs. Shin Satellite Public Co. Ltd., , held as under: (SCC pp.504-505, paras 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 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.""

4. Therefore, we find no merits to entertain the review. Accordingly, the same is dismissed. No costs.