

(2014) 08 P&H CK 0154

In the Punjab And Haryana At Chandigarh

Case No : Review Application No. 239 of 2014 in CWP No. 15553 of 2013

SAB Industries Ltd.

APPELLANT

Vs

Greater Mohali Area Development Authority

RESPONDENT

Date of Decision : 08-08-2014

Acts Referred:

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

Citation : (2014) 08 P&H CK 0154

Hon'ble Judges : Rameshwar Singh Malik, J

Bench : Single Bench

Advocate : Akshay Bhan, Sr. Advocate and Animesh Sharma, Advocate for the Appellant

Final Decision : Dismissed

Judgement

Rameshwar Singh Malik, J.—Applicant seeks review of the order dated 22.7.2013 passed by this Court.

2. Learned senior counsel for the applicant, while referring to the order dated 21.2.2014 passed by the Hon'ble Supreme Court in Special Leave to Appeal (Civil) No. 3953 of 2014 filed by the applicant, submits that the applicant sought and was granted permission to file the present review application. However, learned senior counsel for the applicant did not raise any fresh argument, so as to warrant any interference at the hands of this Court.

3. Having heard the learned senior counsel for the review-applicant at considerable length on each and every aspect of the matter, after careful perusal of the record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that present one has not been found to be a fit case warranting any interference at the hands of this Court in the instant review application. It is so said, because despite having failed to point out any error apparent on the face of the record in the order dated 22.7.2013, learned senior counsel for the applicant wanted to re-argue the case, which is

not the scope of power of review under Order 47 Rule 1 of the Code of Civil Procedure. No other sufficient reason has been pointed out for review of the order dated 22.7.2013 passed by this Court.

4. During the course of hearing, when a pointed question was put to the learned senior counsel for the applicant as to what was the error apparent on the face of the record in the order dated 22.7.2013 passed by this Court, so as to warrant interference in the instant review application, learned senior counsel for the applicant had no answer. Again, when asked as to why the applicant did not avail the remedy of intra-court appeal, which was available to him, by filing a Letters Patent Appeal before the Division Bench of this Court against the order dated 22.7.2013, before approaching the Hon"ble Supreme Court, he had no answer. Further, learned senior counsel for the applicant could not substantiate any of his arguments as to how the sub-clause (viii) of Clause 25-A of the agreement in question was onerous and against the public policy. It is neither pleaded nor argued case on behalf of the applicant that he was misled by any misrepresentation at the hands of respondent-authorities, at the time of executing the agreement containing clause 25-A.

5. The above-said view taken by this Court also finds support from the following judgments of the Hon"ble Supreme Court: Kamlesh Verma Vs. Mayawati and Others, ; Cine Exhibition Pvt. Ltd. Vs. Collector, District Gwalior and Others, ; Pandit Dhana Mali Vs. Bhimabai (D) th. LR's. ; S. Bagirathi Ammal Vs. Palani Roman Catholic Mission, ; Lily Thomas, Vs. Union of India and Others, and Tamil Nadu Electricity Board and another Vs. N. Raju Reddiar and another,

6. Laying down the principles of law on the scope of review, in para-16 of the judgment in Kamlesh Verma's case (supra), Hon"ble Supreme Court held as under:

"Summary of the Principles:

Thus, in view of the above, the following grounds of review are maintainable as stipulated by the statute:

(A) 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 AIR 1922 112 (Privy Council) and approved by this Court in Moran Mar Basselios Catholicos and Another Vs. The Most Rev. Mar Poulouse Athanasius and Others, to mean "a reason sufficient on grounds at least analogous to those specified in rule". The same principles have been reiterated in Union of India (UOI) Vs. Sandur

Manganese and Iron Ores Ltd. and Others,

(B) When the review will not be maintainable:-

(i) A repetition of old and overruled arguments 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 re-heard 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."

7. Coming to the facts of the case in hand and respectfully following the law laid down by the Hon"ble Supreme Court on the scope of review, in the judgments referred to here-in-above, this Court feels no hesitation to conclude that instant review application is wholly misconceived and without any substance. No case for interference has been made out.

8. Review application stands dismissed, however, with no order as to costs.