Company : CourtKutchehry
Website : www.courtkutchehry.com
Printed For :
Date : 12/09/2026

**(2020) 04 RAJ CK 0063**

**In the Rajasthan High Court**

**Case No :** Review Petition (Writ) No. 161 Of 2018

Umaid Inda — APPELLANT

Vs

Union of India And Ors — RESPONDENT

**Date of Decision :** 07-04-2020

**Acts Referred:**

Code of Civil Procedure, 1908 — Order 47 Rule 1
Constitution of India, 1950 — Article 226

**Citation :** (2020) 04 RAJ CK 0063

**Hon'ble Judges :** Sandeep Mehta, J

**Bench :** Single Bench

**Advocate :** R.S. Rathore, O.P. Mehta, Manoj Bhandari

**Final Decision :** Dismissed

## Judgement

The instant review petition has been preferred by the applicant writ petitioner being aggrieved of the order dated 2.5.2018 passed by this Court in S.B.Civil Writ Petition No.992/2013 whereby the writ petition preferred by the petitioner against rejection of her application for grant of retail outlet dealership in furtherance of the advertisement dated 25.6.2012 at the location Sekhala NH14, District Jodhpur was dismissed.

The petitioner, challenged the order dated 2.5.2018 by filing D.B.S.A.W.No.919/2018. It was argued in the special appeal that concerning agricultural lands in the State of Rajasthan, there is no approved list of government approved valuers and as the valuation certificate concerning agricultural land of the respondent No.5 Mst.Preeti issued by Valuer Sandeep Kumar Solanki was accepted; on the same analogy, valuation certificate issued to the appellant by the Valuer Anil Kumar Mathur ought to have been accepted. Hon'ble Division Bench felt that this aspect of the matter was not noted as an argument raised and was thus, not dealt with by the learned Single Bench and accordingly, while deciding the special appeal, the appellant writ petitioner was given liberty to seek review of the order dated 2.5.2018 observing as below:

 

"Needless to state if review is sought before the learned Single Judge the same shall be decided as per the review jurisdiction of the court."

Learned counsel Shri R.S.Rathore representing the petitioner vehemently and fervently urged that the plea that both valuers i.e. Anil Kumar Mathur, who issued the valuation report to the petitioner and Sandeep Mathur, who issued the valuation report to the respondent No.5 Mst.Preeti were not authorized to issue valuation certificates for agricultural lands and that no authorization was at all required to issue valuation certificates for agricultural lands, was specifically raised by the petitioner review applicant in her writ petition. As per Shri Rathore, this important issue escaped consideration of this Court when the writ petition was decided. He thus urged that the impugned order deserves to be recalled; the review petition of the writ petitioner deserves acceptance and that the writ petition should be heard and decided afresh.

Per contra, Shri O.P.Mehta learned counsel representing the respondent Oil Company and Shri Manoj Bhandari learned counsel representing the successful applicant respondent No.5 Mst.Preeti, vehemently and fervently opposed the submissions advanced by the applicant's counsel. They pointed out that the aspect regarding there being no protocol of submitting authorized valuer's certification for agricultural lands in Rajasthan was neither pleaded in the writ petition nor in the rejoinder of the review applicant even though a specific objection was raised by the respondents in their respective replies regarding the writ petitioner's valuer Shri Anil Kumar Mathur not being authorized to issue such a certificate. They pointed out that this aspect was feebly putforth by the petitioner by filing an additional affidavit at a belated stage. This Court is further apprised that construction of the fuel station is nearly complete and it is almost at the stage of commissioning. Learned counsel for the respondents, placed reliance on the Hon'ble Supreme Court Judgment in the case of Meera Bhanja Vs. Nirmala Kumari Choudhury reported in AIR 1995 SC 455 and N.Anantha Reddy Vs. Anshu Kathuria & Anr. reported in 2014 AIR SCW 1058 and sought dismissal of the review petition contending that the order dated 2.5.2018 does not suffer from any error apparent on the face of the record.

I have given my thoughtful consideration tot he arguments advanced at the bar and have gone through the material available on record.

The controversy at hand hovers around the issue whether the effort made by the petitioner to claim and establish that no government certified valuer was required for issuing valuation certificates pertaining to agricultural lands, which both the writ petition applicant as well as the respondent No.5 offered for setting up of the fuel station. In this regard, the pleadings of the writ petition and the reply submitted by the respondents need to be examined and on going through the same, it is manifest that in the entire body of the writ petition, the petitioner nowhere pleaded that there was no requirement of the valuer being approved by the government. Per contra, the respondent Oil Company filed reply in which the following pertinent assertion was made :

 

"4/2] As per evaluation policy envisaged in the brochure, it is clearly stipulated therein that evaluation shall be based on verifying documents submitted with valuation report duly certified by a Government approved valuer in support of claimed assets and it is necessary. Since valuation report submitted by the petitioner is by one valuer - Anil Kumar Mathur, who only claims to be an approved valuer, he is not a Government approved valuer as required by the respondent-Corporation. Since he is not a Government approved valuer, no CAT number is provided in his valuation certificate."

Thus, there was an emphatic plea/objection of the respondent Oil Company in its reply that as on the date of the issuance of the valuation certificate, Anil Kumar Mathur was not a government approved valuer. In the rejoinder filed by the petitioner, the only counter offered was that Anil Kumar Mathur was a government approved valuer. It was nowhere claimed even in the rejoinder that there was no protocol of submitting a government approved valuer's certificate for agricultural lands. The respondents filed numerous documents viz. investigation reports etc. establishing the fact that when investigation was made into a complaint regarding selection procedure of the R.O.Dealership, it was noticed that the writ petitioner's valuer Shri Anil Kumar Mathur was not a government approved valuer. Shri Mathur was contacted and was asked to provide the certificate issued by the Central Board of Direct Taxes but he pertinently denied having any such certificate. The issue regarding there being no requirement of government approved valuer for issuing the valuation certificate pertaining to the agricultural lands which, the petitioner tried to portray before Hon'ble the Division Bench, was neither raised before this Court either in the pleadings nor was it argued during the course of the oral arguments and thus, there arose no occasion for this Court to advert to this issue or to adjudicate thereupon.

Hon'ble the Supreme Court exhaustively considered the scope of review under Order 47 Rule 1 C.P.C. in the cases of N.Anantha Reddy and Meera Bhanja (supra) relied upon by the respondents' counsel.

In the case of N.Anantha Reddy (supra), it was held as below:

"9. A careful look at the impugned order would show that the High Court had a fresh look at the question whether the Appellant could be impleaded in the suit filed by the Respondent No. 1 and, in the light of the view which it took, it recalled its earlier order dated 08.06.2011. The course followed by the High Court is clearly flawed. The High Court exceeded its review jurisdiction by reconsidering the merits of the order dated 08.06.2011. The review jurisdiction is extremely limited and unless there is mistake apparent on the face of the record, the order/judgment does not call for review. The mistake apparent on record means that the mistake is self evident, needs no search and stares at its face. Surely, review jurisdiction is not an appeal in disguise. The review does not permit rehearing of the matter on merits."

 

In the case of Meera Bhanja (supra), Hon'ble the Supreme Court held as below:

"It is well-settled 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, Civil Procedure Code. In connection with the limitation of the powers of the court under Order 47, Rule 1, while dealing with similar jurisdiction available to the High Court while seeking to review the orders under Article 226 of the Constitution of India, this Court, in the case of Aribam Tuleshwar Sharma v. Aribam Pishak Sharma and Ors. AIR 1979 SC 1047, speaking through Chinnappa Reddy, J, has made the following pertinent observations :

It is true there is nothing in Article 226 of the Constitution to preclude the High Court from exercising the power of review which inheres in every Court of plenary jurisdiction to prevent miscarriage of justice or to correct grave and palpable errors committed by it. But, there are definitive limits to the exercise of the power of review. The power of review may be exercised on the discovery of new and important matter or evidence which, after the exercise of due diligence was not within the knowledge of the persons seeking the review or could not be produced by him at the time when the order was made; it may be exercised where some mistake or error apparent on the face of the record is found; it may also be exercised on any analogous ground. But, it may not be exercised on the ground that the decision was erroneous on merits. That would be the province of a Court of Appeal. A power of review is not to be confused with appellate power which may enable an Appellate Court to correct all manner of errors committed by the Subordinate Court.

Now it is also to be kept in view that in the impugned judgment, the Division Bench of the High Court has clearly observed that they were entertaining the review petition only on the ground of error apparent on the face of the record and not on any other ground. So far as that aspect is concerned, it has to be kept in view that an error apparent on the face of record must be such an error which must strike one on mere looking at the record and would not require any long drawn process of reasoning on points where there may conceivably be two opinions. We may usefully refer to the observations of this Court in the case of Satyanarayan Laxminarana Hegde v. Mallikarjun Bhavanappa Tirumale AIR 1960 SC 137, wherein, K.C. Das Gupta, J., speaking for the Court has made the following observations in connection with an error apparent on the face of the record:

An error which has to be established by a long drawn process of reasoning on points where there may conceivably be two opinions can hardly be said to be an error apparent on the face of the record. Where an alleged error is far from self-evident and if it can be established, it has to be established, by lengthy and complicated arguments, such an error cannot be cured by a writ of certiorari according to the rule governing the powers of the superior court to issue such a writ."

 

Testing the order under review on the touchstone of the ratio of the above referred Supreme Court judgments, I am of the firm opinion that it cannot be said by any stretch of imagination that the order dated 2.5.2018 under review suffers from any error apparent on the face of record so as to require review thereof. The petitioner tried to set up a totally new case before Hon'ble Division Bench in order to achieve the relief claimed for and thus, her endeavour cannot be said to be bonafide in any manner.

As a consequence, I find no merit in the instant review petition which is rejected as such.

No order as to costs.

 