

(2017) 03 RAJ CK 0192
In the Rajasthan High Court
Case No : 36 of 2016

United India Insurance Co. Ltd.

APPELLANT

Vs

Gaurav Kachwaha & Ors.

RESPONDENT

Date of Decision : 24-03-2017

Acts Referred:

[Code of Civil Procedure, 1908](#), [Section 114](#)/
[Order 47 Rule 1](#) - Review
[Limitation Act, 1908](#), [Section 5](#)

Citation : (2017) 03 RAJ CK 0192

Hon'ble Judges : P.K. Lohra

Bench : SINGLE BENCH

Advocate : Manoj Bhandari

Judgement

1. Applicant, United India Insurance Co. Ltd., has laid this application under Section 114 read with Section 151 CPC seeking review of judgment and order dated 8th of January 2015 passed in S.B. Civil Misc. Appeal No.1191 of 2010. Office has pointed out following defects in the review petition:

- I. Review Petition is 148 days time-barred.
- II. Deficit Court fee paid.
- III. Colony name of respondent No.2 not tally with appeal title.
- IV. Hon'ble Judge name and case number not shown.
- V. Age and place not shown in affidavit.

2. Regarding defect No.1, i.e. belated presentation of review petition, applicant has filed an application under Section 5 of the Limitation Act for condonation of delay. The review petition is reported to be barred by 148 days. After considering oral request of the learned counsel for the applicant, I feel persuaded to overrule defect Nos. 2 to 5 pointed out by the office.

3. Heard learned counsel for the applicant.
4. At the threshold, before examining the review petition on merit, it is desirable to scrutinize the grounds pleaded in the application for condonation of delay.
5. Upon perusal of the application for condonation of delay, even if the phrase "sufficient cause" is liberally construed, I feel dissuaded to accede to the prayer of applicant for condonation of delay. While it is true that the Court while considering prayer for condonation of delay the Court is required to adopt pragmatic approach rather than purely idealistic and pedantic but then delay cannot be condoned for mere askance so as to render law of limitation nugatory and otiose. Law of limitation is based on public policy with the sole idea that the every legal remedy must be kept alive for legislatively fixed period of time. In totality, the grounds set out in the application for delay are far from satisfactory and cannot be termed as good and sufficient. Consequently, the review petition merits dismissal as barred by limitation.
6. At this stage, I have also made endeavour to examine the review petition on merit. The only ground set out in the review petition is hovering around interest awarded on the enhanced amount of compensation which the Court in its discretion has granted to the first respondent-claimant.
7. Undeniably, review is not a remedy in true sense and right of a litigant seeking review of a judgment or order is circumscribed by virtue of Section 114 and Order 47 Rule 1 CPC. Remedy of review is available to a litigant when there is an error apparent on the face of record in the order/judgment sought to be reviewed.
8. After thoroughly examining the review petition, I am at loss to say that there is no whisper in the review petition that judgment sought to be reviewed suffers from vice of an error apparent on the face of record. There cannot be two opinions that review is not re-hearing of the matter so as to delve deep into the merits of the case. Where a review requires a detailed process of reasoning for finding out an error, such error could not be an error on the face of record. A perusal of the review application makes it abundantly clear that the whole endeavour of the applicant is to re-examine the matter on merits, which is not at all permissible in exercise of review jurisdiction.
9. Resultantly, the review petition fails and same is rejected as barred by limitation as well as on merits.