

(2014) 07 P&H CK 0749

High Court Of Punjab And Haryana At Chandigarh**Case No:** R.A. No. 40 of 2014 (O&M)

Mukhtiar Singh

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision: July 11, 2014**Hon'ble Judges:** Ritu Bahri, J; Paramjit Singh Patwalia, J**Bench:** Division Bench**Advocate:** Dinesh Kumar, Advocate for the Appellant; Dinesh Kumar, Advocate for the Respondent**Final Decision:** Dismissed

Judgement

Paramjit Singh Patwalia, J.

The applicant/respondent initially filed civil writ petition No. 3266 of 1989 challenging the award dated 24.03.1987 passed by Presiding Officer, Labour Court, Bathinda. Learned Single Judge set aside the award vide judgment dated 03.07.2009. Against the judgment of learned Single Judge, State of Punjab and another preferred letters patent appeal wherein the order of learned Single Judge was set aside. Now, this review petition has been filed through a counsel who did not argue the case before the LPA Bench to which one of us (Ritu Bahri, J.) was a member.

2. The LPA Bench held as under:-

10. A perusal of the statement would not leave any manner of doubt that Shri Amarjit Singh, SSI, not only saw the occurrence with his own eyes but he along with Pritam Singh, Electrician, Mangal Singh, Blacksmith and Swaran Singh, Electrician, caught the workman-respondent on the spot when he was trying to fled away. Viewed in that context, the findings recorded by the learned Single Judge that it is a case of no evidence would also not be sustainable.

11. As a sequel to the above discussion, this appeal is allowed. The judgment of the learned Single Judge is set aside and the award of the Labour Court is restored. As a

consequence of the aforesaid direction, the order dated 4.8.2010 passed by the General Manager, Punjab Roadways, Moga, would be inconsequential. The original record be sent back. No order as to cost.

3. Firstly there is a delay of 1135 days in refiling the present review petition, which is excessive. No cogent and sufficient reasons have been given on the basis of which delay could be condoned.

4. Even otherwise, a preliminary issue arises whether a review petition could be allowed to be argued by a counsel who was not a counsel when arguments in the LPA were addressed.

5. Hon"ble Supreme Court in [Tamil Nadu Electricity Board and another Vs. N. Raju Reddiar and another](#), has held as under:-

It is a sad spectacle that new practice unbecoming of worthy and conducive to the profession is cropping up. Mr. Mariaputham, Advocate-on-Record had filed vakalatnama for the petitioner-respondent when the SLP was filed. After the matter was disposed of, Mr. V. Balachandran, Advocate had filed a petition for review. That was also dismissed by this Court on April 24, 1996. Yet another advocate, Mr. S.U.K. Sagar, has now been engaged to file the present application styled as "application for clarification", on the specious plea that the order is not clear and unambiguous. When an appeal/special leave petition is dismissed, except in rare cases where error of law or fact is apparent on the record, no review can be filed; that too by the advocate on record who neither appeared nor was party in the main case. It is salutary to not that court spends valuable time in deciding a case. Review petition is not, and should not be, an attempt for hearing the matter again on merits. Unfortunately, it has become, in recent time, a practice to file such review petitions as a routine; that too, with change of counsel, without obtaining consent of the advocate on record at earlier stage. This is not conducive to healthy practice of the Bar which has the responsibility to maintain the salutary practice of profession.

2. Once the petition for review is dismissed, no application for clarification should be filed, much less with the change of the advocate-on-record. This practice of changing the advocates and filing repeated petitions should be deprecated with heavy had for purity of administration of law and salutary and healthy practice.

6. This Court in Shanti Devi v. Ran Singh, 1998(2) R.C.R. (Civil) 505 also had the occasion to consider whether review can be filed by change of counsel wherein this Court held as under:-

4. On a consideration of the matter and having regard to the facts and circumstances of this case, I am of the opinion that the review application deserves to be dismissed. A simple suit filed by the plaintiff-applicant was that she is the owner in possession of the land in dispute and that she perfected her title to the property by way of adverse possession. As already noticed, the Courts below did not

accept the plaintiff's plea that she has become owner of the property by way of adverse possession. Trial Court had, however, found the plaintiff to be in possession but that finding was reversed by the first appellate Court on appreciation of evidence and it came to the conclusion that the plaintiff failed to prove her possession over the suit land. Second appeal against the judgment and decree of the first appellate Court was dismissed after hearing learned counsel for the parties and after recording that a finding regarding possession of the plaintiff has been arrived at by the first appellate Court on correct appreciation of evidence produced on record. The pleas now sought to be raised do not find mention either in the plaint or in the grounds of appeal before the first appellate Court or the grounds of appeal taken in the second appeal. There is thus no basis for the contention raised now to show that the suit land was left by Muslims and that it vested in the Custodian being evacuee property and therefore, the jurisdiction of the civil Court is excluded. In the absence of any material, the contention which is not based on facts cannot be permitted to be raised in the review application. Besides this, the contention of learned counsel that the Courts should not show any indulgence in the matter of reviewing an order when the review application has been moved by a counsel other than the one who argued the appeal on merits, has force in view of the observations of the apex Court as noticed above in this order. The review application is, therefore, dismissed. Civil Misc. 3567-C and 3302-C of 1997 also stand disposed of accordingly.

7. Otherwise also, it is settled principle of law that review can only be entertained if there is some error apparent on record. In review the Court cannot re-appreciate entire matter. Review cannot be argued like an appeal.

8. In view of above, coupled with huge delay as well as the fact that review application has been filed by change of counsel, no ground for review is made out. The practice of changing the Advocates and filing petitions deserves to be deprecated with heavy hand for purity of administration of law and salutary and healthy practice as has been held by Hon"ble Supreme Court.

9. In view of above, instant review petition is dismissed.