



2022:JKLHC-SGR:4755-DB

Serial No. 02
Regular Cause List

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR**

**RP No. 27/2022 c/w
CCP (D) No. 33/2022**

Union Territory of Jammu and Kashmir & Ors.

... Petitioner(s)

Through: -

Mr Sajjad Ashraf Mir, Government Advocate.

V/s

Shahida Noor

... Respondent(s)

Through: -

Mr Salih Pirzada, Advocate.

CORAM:

**Hon'ble Mr Justice Ali Mohammad Magrey, Judge
Hon'ble Mr Justice Mohd. Akram Chowdhary, Judge**

(ORDER)

30.08.2022

(Magrev-J):

RP No. 27/2022:

By this motion, the Review Petitioner-Union Territory of Jammu and Kashmir is seeking review of final Order dated 22nd of March, 2022 passed by this Court in Writ Petition bearing WP (C) No. 500/2022 filed by the Respondent herein.

We have heard Mr Sajjad Ashraf Mir, the learned Government Advocate, appearing on behalf of the Review Petitioner as well as Mr Salih Pirzada, the learned Counsel representing the Respondent/ Writ Petitioner. We have also gone through the pleadings on record.



At the very outset, what requires to be stated is that in the instant Review Petition, the Review Petitioner has touched upon the merits of the case, which, in a Review Petition, is unwarranted as per well settled position of law. The grounds urged in the Review Petition have already been decided and findings returned thereon by the Court and, if the Review Petitioner was/ is aggrieved of the said findings, it ought to have availed the remedy under law for challenging the same in the appropriate Court. In fact, the instant Review Petition, on grounds enumerated therein, appears to be a disguised appeal. The grounds taken by the Review Petitioner, essentially, are either that the findings recorded by the Court are not legally tenable, or that the same are perverse, or that the same are unacceptable. A Judgment/ Order may be wrong, erroneous, incorrect, perverse, legally untenable, etc. etc., but, the only course available for the aggrieved party is to go in appeal against the said judgment. Such grounds do not constitute errors of fact or of law on the face of the record as would call for a review.

It is settled legal position that a review cannot also be used as a tool for changing the opinion/ view of the Court. In a Review Petition, it is only an error, apparent on the face of the record, which can be considered and gone into by the Court. It is not open to the Court, dealing with review of its decision, to re-appreciate the evidence and reach a different conclusion, even if that is possible. Conclusion arrived at, on appreciation of evidence and after hearing the rival parties, cannot be assailed in a Review Petition, unless it is shown that there is an error apparent on the face of the record. So far as the grievance of the Review Petitioner on merits of the case is concerned, virtually the Review Petitioner seeks the



same relief which it had sought at the time of arguing the main matter and had been negated. Once such a prayer has been refused, no Review Petition would lie which would convert re-hearing of the 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. It is not re-hearing of an original matter. A repetition of old and overruled argument is not enough to reopen concluded adjudications. The power of review has to be exercised with extreme care, caution and circumspection, that too, only in exceptional cases.

The power of review is exercised when some mistake or error, apparent on the face of the record, is found. A mistake or an error, apparent on the face of the record, means a mistake or an error which is, *prima facie*, visible and does not require any detailed examination. Such an error must strike one on mere looking at the record and should not require any long-drawn process of reasoning on the points where there may, conceivably, be two opinions. In the present case, the Review Petitioner has not been able to point out any error, apparent on the face of the record, but, on the contrary, under the guise of the instant Review Petition, the Review Petitioner is challenging the Order passed by this Court, which is under review. We, while considering this Review Petition, perused the pleadings on record as well as the Order sought to be reviewed and did not find any error apparent on the face of record in the Order under review as would warrant any indulgence from us in this Review Petition.



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In the above background, we do not find any error, apparent on the face of the record, in the Order dated 22nd of March, 2022 passed by this Court in WP (C) No. 500/2022, as would warrant its recall on review. That being so, the instant Review Petition shall stand **dismissed**.

CCP (D) No. 33/2022:

Contempt Petition bearing CCP (D) No. 33/2022 be segregated and listed separately on 13th of September, 2022.

Registry to place a copy of this Order on each file.

(Mohd. Akram Chowdhary)
Judge

(Ali Mohammad Magrey)
Judge

SRINAGAR
August 30th, 2022
"TAHIR"

