

Item No.04

**BEFORE THE NATIONAL GREEN TRIBUNAL  
CENTRAL ZONAL BENCH, BHOPAL**

(By virtual Mode)

Review Application No.04/2023(CZ)  
IN  
Original Application No.91/2022(CZ)  
**(I.A.No.105/2023) (I.A.No.108/2023) and (I.A.No.115/2023)**

Omprakash Somani Applicant(s)  
  
Versus  
  
State of Rajasthan & Ors. Respondent(s)

Date of hearing: 24.11.2023

**CORAM: HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER  
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

For applicant(s) : Mr. Mohammad Iquraam, Advocate, review  
applicant  
For respondent(s) : Ms. Diksha Chaturvedi, Advocate for Mr. Om  
Prakash Somani (original applicant)  
(through VC)  
Mr. Nishant Kesharwani, Advocate for Mr. Shoeb  
H. Khan, Advocate for State of Rajasthan  
(through VC)

**ORDER**

**IA No. 108/2023:**

1. Heard Learned Counsel appearing for the parties. The explanation for filing this Review Application beyond period of limitation has been satisfactorily explained. Application for seeking condonation of delay is allowed.

**Review application No. 04/2023:**

2. It is a Review Application filed by two review applicants i.e., Shri Jagdish Prasad Jaat i.e., respondent 9 in Original Application (hereinafter

referred to as '**OA**') and Smt. Geeta Devi Jaat, wife of Shri Jagdish Prasad Jaat who was impleaded through office as Sarpanch Gram Rayla as responded 7 in OA seeking review of our judgment dated 24.07.2023 passed in **OA 91/2022(CZ)**.

3. The contention is that survey no. 739/1 is not part of survey no. 739 but is a separate khasra no. and hence, it is not a part of Dharam talab.

4. Learned Counsel appearing for review applicant, however, could not dispute that original survey no. 739 does not exist since it has been bifurcated in khasra no. 739/1 and 739/2 and, therefore, the basic ground for review has no substance.

5. The other ground mentioned in Review Application is that survey no. 739 does not exist and we find answer from the record that since it has been bifurcated and now recorded 739/1 and 739/2, obviously survey no. 739 would not be in existence. This aspect, as such does not make any difference to the issue decided by Tribunal.

6. The further ground stated in review Application is that khasra no. 707 is not a part of catchment area; the applicant filed documents deceitfully in as much as in Bhoo-abhilekh record, khasra no. 739 has been mentioned and there is no mention of khasra no. 739 but 739/1. As we already have said that since khasra no. 739 has been bifurcated and khasra no. 739/1 is part of khasra no. 739 hence, it cannot be said that there is any deception or misrepresentation on the part of applicant.

7. The further ground taken in Review Application, seeking review are that conversion order of khasra no.2517 and khasra no.2521 was affirmed by Additional District Collector, Bhilwara on 09.08.2008; school

was constructed through duly established procedure; nature of khasra no. 2517, 2521 and 2523 was not explained by original applicant and State of Rajasthan; conversion order khasra no. 2517 regarding establishment of petrol pump was through due procedure; No Objection Certificate for petrol pump was granted through Gram Sabha; resolutions passed by Review applicant no.2 were never challenged; Review applicant no.2 is not an authority to construct road; misrepresentation of facts by original applicant/respondent no.8; no allegation of encroachment against Review applicant as per Joint Committee Report; Gram Panchayat is a nodal agency; road from post office to RICO area was approved by NAREGA; review applicant no.1 land was wrongly calculated; no evidence regarding the blockage of water/drainage by review applicant; reply by State Government is in contradiction of actual situation; and OA is barred by limitation. We find that in fact all these ground are nothing but an attempt on the part of review applicant to re-argue the matter which is not within the scope of review since review lie only when there is a substantial/glaring error in the judgment and not to give an opportunity to the applicant to re-argue the matter.

8. Recently, in ***Review Petition (Civil) No. 1620/2023, Civil Appeal No. 1661/2020, Sanjay Kumar Agarwal vs. State Tax Officer (1) & Anr.*** and other connected matters, decided on 31.10.2023, Supreme Court has observed that the parties are not entitled to seek a review of judgment merely for the purpose of re-hearing and a fresh decision of the case. Applying principles of Order 47 Rule 1 CPC, it is said that a review of judgment is open *inter-alia* if there is a mistake or error apparent on the face of the record. An error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of record. Supreme Court has culled down following

propositions relevant for review of the judgment:

- (i) A judgment is open to review inter-alia if there is a mistake or an error apparent on the face of the record.
- (ii) A judgment pronounced by the Court is final and departure from that principle is justified only when circumstances of a substantial and compelling character make it necessary to do so.
- (iii) An error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of record justifying the court to exercise its power of review.
- (iv) In exercise of the jurisdiction under Order 47 Rule 1 CPC, it is not permissible for an erroneous decision to be “reheard and corrected”.
- (v) A Review Petition has a limited purpose and cannot be allowed to be “an appeal in disguise.”
- (vi) Under the guise of review, the petitioner cannot be permitted to reagitate and reargue the questions which have already been addressed and decided.
- (vii) An error on the face of record must be such an error which, mere looking at the record should strike and it should not require any long-drawn process of reasoning on the points where there may conceivably be two opinions.
- (viii) Even the change in law or subsequent decision/ judgment of a co-ordinate or larger Bench by itself cannot be regarded as

a ground for review.

9. We, therefore, find no merit in the application, hence dismissed.

10. All other IAs are also rejected.

Sudhir Agarwal, JM

Dr. Afroz Ahmad, EM

November 24, 2023  
Review Application No.04/2023(CZ)  
Original Application No.91/2022(CZ)  
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