

Kamru and Another Vs. Govardhan and Others

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Court : Chhattisgarh

Decided On : Apr-16-2014

Judge : P. Sam Koshy

Appeal No. : Review Petition No. 20 of 2014

Appellant : Kamru and Another

Respondent : Govardhan and Others

Judgement :

1. By way of the instant review petition, the petitioners have sought for review of the judgment passed by this Court in Second Appeal No.345/02 dated 30.10.13.
2. The petitioners who were the appellants in the said second appeal were the defendants in Civil Suit No. 106-A/94 decided by the 1st Civil Judge, Class-II, Ambikapur. By way of the said civil suit, a relief for declaration was sought declaring the plaintiffs as successors of late Dhani.
3. The trial court had, after conclusion of the trial, vide its judgment dated 23.12.95, decreed the suit in favour of the plaintiffs declaring them to be the successors of late Dhani.
4. This judgment of Civil Suit No.106-A/94 dated 23.12.95 was subjected to challenge in the First Appeal which was registered as Civil Appeal No.21-A/02.

5. The 1st appellate court also vide its judgment and decree dated 17.7.02, after considering the submissions put forth by the appellants therein, dismissed the civil appeal upholding and confirming the judgment and decree passed by the trial court.

6. It was these two judgments passed by the civil court as well the 1st appellate court dated 23.12.95 and 17.7.02 which was put to challenge in Second Appeal No.345/02.

7. This court, vide its judgment dated 30.10.13 had found that there was no substantial question of law involved in the facts and circumstances and accordingly, after considering the submissions put forth by the counsel for the appellants therein, had dismissed the second appeal.

8. It is this judgment dated 30.10.13 which is now being sought to be reviewed through the review petition preferred by the petitioners.

9. On perusal of the contents and the submissions put forth by the petitioners in the review petition, it appears that by way of the review petition, the petitioners intend to agitate the whole case and in the process, the petitioners seek an opportunity for re-arguing the second appeal which has been dismissed by this Court on 30.10.13.

10. It is settled position of law that a second appeal can only be admitted for hearing subject to the same having substantial question of law. In the instant case, after considering the submissions put forth by counsel for the appellants therein, this Court had reached to the conclusion that there was no substantial question of law involved in the matter and accordingly, the second appeal was dismissed. Now, by way of the instant review petition, the petitioners have not been able to point out any manifest much less error on the face of the record said to have been committed by this Court in the process of deciding the second appeal on 30.10.13. It is also the legal position settled by a catena of decisions that review proceedings are not in the nature of the appeal and the review application has to be strictly confined to the scope of ambit of Order 47 Rule 1 CPC.

11. From the documents of the review petition, it appears that the petitioners seek an opportunity to argue the entire case afresh on merits under the garb of the review petition which otherwise is not permissible nor is tenable in the eyes of law. It is trite at this juncture to refer to certain decisions rendered by the Hon'ble Supreme Court on the question of entertaining the review petition in the matters of Kerala State Electricity Board vs. Hitech Electrothermicism and Hydropower Ltd. and others reported in (2002) 6 SCC 651, Government of T.N. and Others vs. Ananchu Asari and others reported in (2005) 2 SCC 332, Ajit Kumar Rath vs. State of Orissa and others reported in AIR 2000 SC 85, Lily Thomas etc. vs. Union of India and others reported in AIR 2000 SC 1650 and Meera Bhanjan vs. Smt. Nirmal Kumar Chowdhary reported in AIR 1995 SC 455.

12. All these judgments referred to above deals with the scope of a review petition and the crux of all these judgments, as a matter of principle as laid down by the Hon'ble Supreme Court is that in the garb of a review petition, the petitioner cannot be permitted to argue the entire case afresh which would amount to converting the review petition into an appeal unless there is an error on the face of the record and on the part of the Court in the passing of the judgment against which the review is sought for.

13. In the result, for the foregoing reasons, the review petition being devoid of merits, the same is accordingly dismissed at the circulation stage.

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