

IN THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM:NAGALAND:MEGHALAYA:MANIPUR:
TRIPURA:MIZORAM AND ARUNACHAL PRADESH)

SHILLONG BENCH

**Review Ptn No.(SH)2 of 2013 in
WP(C) No.(SH) 13 of 2013**

North East Transmission Co.Ltd,
House No.051358,
Road No.3,
Post Office Dhaleswar,
Agartala, West Tripura 799007,
Represented by its Managing Director.

: Review Petitioner

versus

1. Mr Peter H Rynjah,
Dhakhetti, Malki, Shillong.

2. Deputy Commissioner,
Ri Bhoi District Nongpoh.

3. Shri LGM Kharmih,
Extra Assistant Commissioner,
Ri Bhoi District, Nongpoh.

: Respondents

4. Smt Kredis Syiem,
Lum Nongrum Village,
Byrnihat.

5. Smt Debika Syiem,
Lum Nongrim Village,
Byrnihat.

: Pro Forma respondents

**B E F O R E
THE HON'BLE MR JUSTICE SR SEN**

For the Review petitioner

:Smti Millie Hazarika,
Sr Adv
Nitin Khera,
Aidahun A Syiem,
G Shallam,
Daphisha N Thangkhiew
Advocates

For the respondents

: Mr S Jindal

Date of hearing : 12.02.2013

Date of judgment and order : 12.02.2013

JUDGMENT AND ORDER

The instant Review petition has arose out of the order dated 6.02.2013 passed by this Court in WP(C) No.(SH)13 of 2013.

2. The petitioner's case in brief is that it is a Government Corporation and a licensee under Section 68 of the Electricity Act, 2003, for transmission of electric power and engaged in transmission of power in the North-Eastern region. The Deputy Commissioner, Ri-Bhoi, vide order dated 17.01.2013 allowed the petitioner to go ahead with the construction of the tower and transmission line and petitioner has completed the work. By Judgment and order dated 06.02.2013 in WP(C) No.(SH)13 of 2013 after hearing both the parties this Court directed the Deputy Commissioner Ri Bhoi, to restrain the respondent in the said writ petition, who is petitioner in this instant Review petition not to transmit power through the tower till compensation is fixed. Hence this instant Review Petition.

3. Smti M Hazarika, learned senior counsel appearing for and on behalf of the petitioner argued that they are ready to pay the compensation and to allow them to put the tower in motion. On the other hand, learned counsel for the respondent No.1 Mr S Jindal, submits that the instant Review petition is not maintainable as there is no error found on the face of the judgment and order dated 06.02.2013. To support his contention, learned counsel,

relied on ***Meera Bhanja (Smt) vs Nirmala Kumari Choudhury (Smt) reported in (1995) 1 SCC 170.*** After hearing the submissions advanced by the learned counsel and on perusal of the Review petition specifically para 33 and 34 of the petition, I do not find the instant Review petition is maintainable because the Hon'ble Supreme Court in the case of ***Meera Bhanja (Supra)***, at para 8 was pleased to observed :-

"8. It is well settled that the review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of Order 47, Rule 1, CPC. In connection with the limitation of the powers of the court under Order 47, Rule 1, while dealing with similar jurisdiction available to the High Court while seeking to review the orders under Article 226 of the Constitution of India, this Court, in the case of *Aribam Tuleshwar Sharma v. Aribam Pishak Sharma* , speaking through Chinnappa Reddy,J., has made the following pertinent observations : (SCC p.390,para 3)

"It is true as observed by this Court in *Shivdeo Singh v. State of Punjab*, there is nothing in Article 226 of the Constitution to preclude the High Court from exercising the power of review which inheres in every Court of plenary jurisdiction to prevent miscarriage of justice or to correct grave and palpable errors committed by it. But, there are definitive limits to the exercise of power of review. The power of review may be exercised on the discovery of new and important matter or evidence which, after the exercise of due diligence was not within the knowledge of the person seeking the review or could not be produced by him at the time when the order was made; it may be exercised where some mistake or error apparent on the face of the record is found; it may also be exercised on any analogous ground. But, it may not be exercised on the ground that the decision was erroneous on merits. That would be the province of a court of

appeal. A power of review is not to be confused with appellate power which may enable an appellate court to correct all manner of errors committed by the subordinate court.”

4. In this instant case, I cannot satisfy myself that there was some error or mistake in the judgment dated 06.02.2013, therefore, I am unable to exercise review power. If at all the petitioner is aggrieved by the judgment and order dated 06.02.2013 they have the remedy to approach the appellate court.

5. Hence, I am of the prima facie view that the instant review petition is not maintainable and stands dismissed and disposed of. No order as to costs.

JUDGE

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