

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Review Petition No.45 of 2024

Date of Decision: 28.03.2025

Dr. Ramandeep Singh & Anr.Petitioners

Versus

State of Himachal Pradesh & others ... Respondents

Coram:

Hon'ble Mr. Justice Sandeep Sharma, Judge.

Whether approved for reporting? ¹

For the Petitioners : Mr. Sanjeev Bhushan, Senior Advocate with Mr. Vinod Thakur, Advocate.

For the Respondent: Mr. Anup Rattan, Advocate General with Mr. Rajan Kahol, Mr. Vishal Panwar and Mr. B.C.Verma, Additional Advocate Generals and Mr. Ravi Chauhan, Deputy Advocate General.

Sandeep Sharma, Judge(oral):

By way of present Review Petition filed under Section 114 of the Code of Civil Procedure, a prayer has been made on behalf of the review petitioners to review and recall the judgment dated 15.05.2024 passed by this Court in CWP No.7306 of 2021, titled as ***Dr. Ramandeep Singh and another vs. State of Himachal Pradesh and others***, whereby this Court, while disposing of the petition, reserved liberty to the petitioners to file claim for compensation qua the damage caused to their properties on account of construction of National Highway before the Committee constituted

¹ Whether the reporters of the local papers may be allowed to see the judgment?

by the Government of Himachal Pradesh within a period of two weeks with a direction to afore Committee to decide the same expeditiously, preferably within a period of two weeks. This Court observed in the aforesaid order that while ascertaining the damage, if any, afore Committee shall also take into consideration the status report dated 21.11.2023, submitted by respondent No.4, in the instant proceedings, which clearly reveals that on account of construction of National Highway, substantial damage has been caused to the building in question, as a result thereof, it has become uninhabitable.

2. Precisely, the ground as has been raised in the instant petition for reviewing/ recalling order dated 15.05.2024 passed by this Court, is that Committee constituted by Government of Himachal Pradesh is competent to resolve and sort out all the issues including the issue of assessing the damage on private land, building and structures beyond ROW, however, some portion of the land of the petitioners falls within ROW. However, this Court having perused the pleadings adduced on record by the respective parties finds that report given by the Joint Inspection Committee constituted by respondent No.4, clearly reveals that damage, if any, to the private land and building of the petitioners caused on account of construction of National Highway is beyond ROW. If it is so, assessment of damage can only be done by the Committee.

3. Leaving everything aside, Committee constituted by Government of Himachal Pradesh is yet to do the needful in terms of order sought to be reviewed. Even for the sake of arguments, it is presumed that property alleged to have been damaged on account of construction falls within ROW, Committee is well within its jurisdiction to reject **the representation filed by the petitioners**, enabling them to seek compensation qua the damage caused to their property from the competent court of law.

4. I have heard learned counsel for the parties and gone through the record of the case.

5. The grounds raised are nothing but reiteration of the grounds urged in petition. The review jurisdiction is not meant to appreciate and re-appreciate the facts already considered and urged. The review petition cannot be equated with original hearing of the case and finality of the order sought to be reviewed cannot be questioned by opening the entire case. The submission made that the decision suffers from an error apparent on the face of the record cannot be accepted. The Hon'ble Supreme Court *in M/s.Thungabhadra Industries Ltd. vs. The Government of Andhra Pradesh, AIR 1964 SC 1372*, held:

“11.a review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected, but lies only for patent error. We do not consider that this furnishes a suitable occasion for dealing with this difference

exhaustively or in any great detail, but it would suffice for us to say that where without any elaborate argument one could point to the error and say here is a substantial point of law which stares one in the face, and there could reasonably be no two opinions entertained about it, a clear case of error apparent on the face of the record would be made out.....”

(P.1377)

6. This Court sees no material irregularity manifest in the order, undermining its correctness or resulting into miscarriage of justice. Needless to say that the review is not an appeal in disguise, entitling a party to be heard, simply because the party wants decision to be otherwise.

7. Consequently, in view of above, as well as principles laid down in the judgment rendered by Hon'ble Apex Court in ***Kamlesh Verma vs. Mayawati & Ors, (2013)8 SCC 320*** and ***Akhilesh Yadav Etc. vs. Vishwanath Chaturvedi, (2013)2 SCC 1***, the present petition is dismissed. Pending applications, if any, are also disposed of. Needless to say, limitation shall not come in the way of the petitioners while filing the appeal, if any, against the order sought to be reviewed.

(Sandeep Sharma),
Judge

March 28,2025
(shankar)