

IN THE COURT OF ADDITIONAL DISTRICT JUDGE
AIZAWL JUDICIAL DISTRICT, AIZAWL, MIZORAM.

Present : Shri Vanlalenmawia, MJS
Additional District Judge,
Aizawl Judicial District, Aizawl.

Review Petition No. 9 of 2015
In L.A. Case No. 23 of 2013

Smt. J.H. Lalhmangaihi
D/o Ralaithanga
R/o Kolasib, Mizoram

.....Applicant/Petitioner

-Versus-

1. The District Collector, Kolasib District
2. The Secretary to the Govt. of Mizoram,
Land Revenue & Settlement Department, Aizawl
3. The Under Secretary to the Govt. of Mizoram
Land Revenue & Settlement Department, Aizawl
4. The Director, Land Revenue & Settlement Department,
Aizawl, Mizoram
5. The Deputy Engineer,
North Eastern Frontier Railway, SilcharOpposite Parties

APPEARANCE

For the petitioner	:	Shri K. Laldinliana, Advocate.
For the O.P. No. 1	:	None appears.
For the O.P. No. 2-4	:	None appears.
For the O.P. No. 5	:	Shri Ali Hussain, Advocate
Hearing	:	23.2.2016
Judgment delivered on	:	29.2.2016

ORDER

1. The application has been filed under Order XLVII of CPC for review of the Order dated 13.9.2013 passed in L.A. Case No. 23 of 2013.
2. No written statement is filed by the Ops No. 1 to 4.

3. But, written objection is filed on behalf of Railway/O.P.

4. The petitioner's case as has been shown in the review application in short is that she claimed to be the owner of the lands, acquired for construction of the N.F. Railway from Bairabi to Sairang for which the Awards No. 1 of 2012 (Part A-Kawnpui) was made by the Opposite Party No. 1. According to the applicant, the Opposite Party No. 1 did not make any assessment regarding the land value in respect of her lands on the sole grounds that the same were covered by the House Passes while lands of the same status were assessed for payment of compensation to such land owners in connection with acquisition of land for Mizoram University at Tanhril.

5. Aggrieved by the Award, the applicant made application u/s 18 of the Land Acquisition Act, 1894 to the District Collector, Kolasib for referring the matter for consideration by the Principal Civil Court. The matter having been referred, the same was registered as L.A. Case No. 23 of 2013.

6. The case was contested by the Opposite Parties. Thereafter, the Judgment & Award dated 13.9.2014 was passed by awarding solatium u/s 23(1A) of L.A. Act, 1894 and interest u/s 23(2) of the Act to the applicant.

7. I heard the learned Counsel Shri K. Laldinliana appearing for the review petitioner as well as the learned N.F. Railway Standing Counsel Shri Ali Hussain.

8. I have perused the records of L.A. Case No. 23 of 2013 including the reference application made u/s 18 of L.A. Act which is placed before me.

9. In her reference application, the petitioner claimed payment of solatium at the rate of 30% of the award (Section 23(1A) of L.A. Act, 1894) with interest at the rate of 12% (Section 23(2) of the Act) to them, but without claiming any market value of her land. Accordingly, the then learned Addl. District Judge passed Judgment and Award dated 21.11.2013 in which the petitioner was awarded additional amount in the form of solatium @ 30% of the award of compensation u/s 23(1A) of L.A. Act, 1894 and in the form of interest @ 12% u/s 23(2) of the Act to the petitioner as prayed for.

10. While considering the review petition, the Hon'ble Apex Court in the case of Northern India Caterers (India) Ltd. V. Lt. Governor of Delhi, AIR 1980 SC 6741 (1980) 2 SCC 167 has observed as under :

'13. It is well settled that a party is not entitled to seek a review of a judgment delivered by this Court merely for the purpose of a rehearing and a fresh decision of the case. The normal principle is that 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. Sajjan Singh v. State of Rajasthan [MANU/SC/0052/1964](#) : [1965]1SCR933 ,948. For instance, if the attention of the Court is not drawn to a material statutory provision during the original hearing, the Court will review its judgment. G.L. Gupta v. D.N. Mehta [MANU/SC/0487/1971](#) : [1971]3SCR748 , 760. The Court may also reopen its judgment if a manifest wrong has been done and it is necessary to pass an order to do full and effective justice. O.N. Mahindroo v. Distt. Judge Delhi and Anr. [MANU/SC/0059/1970](#) : [1971]2SCR11 , 27. Power to review its judgments has been conferred on the Supreme Court by Article [137](#) of the Constitution, and that power is subject to the provisions of any law made by Parliament or the rules made under Article [145](#). In a civil proceeding, an application for review is entertained only on a ground mentioned in XLVII Rule 1 of the CPC, and in a criminal proceeding on the ground of an error apparent on the face of the record. (Order XL Rule 1, Supreme Court Rules, 1966). But whatever the nature of the proceeding, it is beyond dispute that a review proceeding cannot be equated with the original hearing of the case, and the finality of the judgment delivered by the Court will not be reconsidered except "where a glaring omission or patent mistake or like grave error has crept in earlier by

judicial fallibility." Chandra Kanta v. Sheikh Habib
MANU/SC/0064/1975 : [1975]3SCR933.'

11. In the instant case, final judgment on the Reference Application made under Section 18 of the L.A. Act was delivered by the then learned Addl. District Judge, Aizawl. As there is no glaring omission or patent mistake or grave error in the judgment, I do not find any necessity to review the Judgment & Award in L.A. Case No. 23 of 2013 passed by my predecessor.

12. It is pertinent to mention here that if the petitioner had not accepted the Award No. 1 of 2012, she should make application to the Collector for referring the matter for determination of the Court within 6 weeks from the date of the Collector's Award, if she were present at the time of pronouncement of the Award or within 6 months from the date of Award, if she were not present at the time of pronouncement of the Award. Hence, the then learned Addl. District Judge was right in awarding the solatium and interest of the Award only due to non-mention of market value of her land in her reference petition

13. Upon hearing the rival parties and perusing the records requisitioned, I do not find that there is a sufficient ground for allowing the application for review of the judgment and award dated 13.9.2013 in L.A. Case No. 23 of 2013. Accordingly, the present review petition is dismissed without cost.

14. The review petition is disposed off.

Sd/- VANLALENMAWIA
 Addl. District Judge
 Aizawl Judicial District,
 Aizawl, Mizoram.

Memo No. _____/ADJ(A)/2016 : Dated Aizawl, the 29th February, 2016

Copy to: -

1. Smt. J.H. Lalhmangaihi through Counsel Sh. K. Laldinliana, Advocate.
2. The District Collector, Kolasib
3. The Secretary to the Govt. of Mizoram,
Land Revenue & Settlement Department, Aizawl
4. The Under Secretary to the Govt. of Mizoram,
Land Revenue & Settlement Department, Aizawl
5. The Director, Land Revenue & Settlement Department,
Mizoram, Aizawl
6. The Deputy Chief Engineer, North Eastern Frontier Railway, Silchar through Shri Ali Hussain, Advocate.
7. District Judge, Aizawl Judicial District, Aizawl.
8. Registration Section.
9. Guard File.
10. Case Record.
11. Calendar Judgment.

through
Sh. R. Lalremruata,
Standing Counsel

P E S H K A R