

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

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

Review Petition No. 21 of 2014
in L.A. Case No. 36 of 2013

1. V.L.Peka
S/o Lalthlamuana,
R/o Kawnpui, Kolasib District.
2. Lalhmuaka
S/o Nuntluanga (L),
R/o Kawnpui, Kolasib District.
3. Lalenga
S/o Thlauva,
R/o Kawnpui, Kolasib District.
4. Lalthanga
S/o Hlinga,
R/o Kawnpui, Kolasib District.
5. C.Lalbiakthanga
S/o Lalrosanga (L),
R/o Kolasib, Kolasib District.
6. Lalkima
S/o Lalduhawma,
R/o Kawnpui, Kolasib District.
7. Lalduhawma
S/o Vanlalliana,
R/o Kawnpui, Kolasib District.
8. Lianzuala
S/o Lalzuia(L),
R/o Kawnpui, Kolasib District.
9. Thanpari
D/o C.Sangzuala,
R/o Chaltlang Dawrkwn, Aizawl.
10. Rev. R.Thangvunga
S/o Rova (L),
R/o Durtlang, AiZawl.

11. Thangrikhuma
S/o Kapkunga,
R/o Kawnpui, Kolasib District.
12. Lalrinchhana
S/o Kaptama,
R/o Kawnpui, Kolasib District.
13. R.K.Bawnga
S/o Sapliana,
R/o Kawnpui, Kolasib District.
14. Kawltea
R/o Kolasib, Mizoram.Petitioners.

-versus-

1. The District Collector, Kolasib District.
2. The Deputy Chief Engineer,
Northern Frontier Railway, Silchar.
.....Opposite Parties.

APPEARANCE

For the petitioner	:	Shri Lalramhluna, Advocate.
For the O.P. No. 1	:	None appears.
For the O.P. No. 2	:	Shri Ali Hussain, Advocate.

Hearing	:	19.2.2016
Order delivered on	:	29.2.2016

ORDER

1. The application has been filed under Order 47 of CPC for review of the Judgment & Award dated 21.11.2013 passed by Smt. Marli Vankung, the then learned Addl. District Judge in L.A. Case No. 36 of 2013.
2. No written statement is filed by the OP No. 1/District Collector, Kolasib, but written objection is filed on behalf of the O.P. No.2/N.F. Railway.

3. I heard the learned Counsel Shri Lalramhluna appearing for the review petitioner. I also heard the learned Standing Counsel Shri Ali Hussain for the O.P. No.2/N.F. Railway.

4. The petitioners' case as has been shown in the review application in short is that they claimed to be the land owners holding Periodic Patta, acquired for construction of the N.F. Railway line from Bairabi to Sairang for which the Award No. 1 of 2012 was made. According to them, the Opposite No. 1/District Collector, Kolasib, did not assess market value of their lands covered by Periodic Patta to which they were entitled to in view of the Judgment of the Hon'ble Gauhati High Court, Aizawl Bench passed in R.F.A. No. 22 of 2010 which was upheld by the Apex Court in Civil Appeal No. 2731 of 2012.

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. 36 of 2013.

6. The case was contested by the opposite parties. Thereafter, the Judgment & Award dated 21.11.2013 was passed by awarding 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 applicant.

7. I heard the learned Counsel Shri Lalramhluna appearing for the review petitioners as well as the learned N.F. Railway Standing Counsel Shri Ali Hussain.

8. I have perused the records of L.A. Case No. 36 of 2013 including the reference application made u/s 18 of L.A. Act which is placed before me.

9. In their reference application, the petitioners 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 their lands. Accordingly, the then learned Addl. District Judge passed Judgment and Award dated 21.11.2013 in which the petitioners were 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 petitioners 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. 36 of 2013 passed by my predecessor.

12. It is pertinent to mention here that if the petitioners had not accepted the Award No. 1 of 2012, they 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 they were present at the time of pronouncement of the Award or within 6 months from the date of Award, if they 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 their lands in their 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 21.11.2013 in L.A. Case No. 36 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. Sh. V.L. Peka & Ors. through Counsel Sh. Lalramhluna, Advocate.
2. The District Collector, Kolasib through Sh. R. Lalremruata, Standing Counsel.
3. The Deputy Chief Engineer, North Eastern Frontier Railway, Silchar through Standing Counsel Shri Ali Hussain, Advocate.
4. District Judge, Aizawl Judicial District, Aizawl.
5. Registration Section.
6. Guard File.
7. Case Record.
8. Calendar Judgment.

P E S H K A R