

ORDER ON IA-XVII FILED BY JDR-1 UNDER ORDER SECTION 114
R/W XLVII RULE 1 & 2 OF CPC.,

The JDR-1 has filed this application praying to review order dated 20/06/2022, contending that he has made excess payment to DHR and to prove the same examination of manger of DHR bank is necessary.

2. The order sheet dated 20/06/2020 discloses that on the said date this court passed orders on IA-16 filed by JDR-1 under Order XVIII Rule 17 read with Section 151 of CPC., wherein the prayer made by JDR-1 to recall the manager of DHR Bank for cross examination is rejected.

3. The JDR-1 has filed this application for review under Order XLVII Rule 1 of CPC., which reads as under;

1. Application for review of judgment: (1) Any person considering himself aggrieved,-

(a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred,

(b) by a decree or order from which no appeal is allowed, or

(c) by a decision on a reference from a Court of Small Causes,

and who, from the discovery of new and important matter of evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or an account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review

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of the decree passed or order made against him, may apply for a review of judgment of the Court which passed the decree or made the order.

4. A careful reading of Order XLVII CPC., makes it clear that a application/petition for review is maintainable only on the grounds narrated in order XLVII CPC.

5. The law is well settled regarding the exercise of review jurisdiction by the Courts, which may be summed up as under;

- i. *review jurisdiction may be exercised only for the purpose of correcting the error apparent on the face of record;*
- ii. *The power of review cannot be exercised for re-hearing and correcting an erroneous decision; the only remedy available to the aggrieved party, is to assail such erroneous decision in appeal;*
- iii. *A review of an earlier order is not permissible unless the Court is satisfied that material error, manifest on the face of the order, undermines its soundness or results in miscarriage of justice.*

6. In the backdrop of settled principles of law, the case on hand is discussed. The JDR-1 herein is contending that order dated 20/06/2022 passed by this court on the application filed by him under Order XVIII Rule 17 read with Section 151 of CPC., is incorrect and illegal. It is contended that the amount determined by this court in its order dated 1/02/2022 is illegal.

7. However, perusal of said order dated 20/06/2022, discloses that this court has passed detailed order on IA-16 and accordingly rejected the application holding that the same is devoid of merits. The court has given reason for not allowing the

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application IA-16. If there is mistake in the said order, it is open for JDR-1 to challenge the same. An application/petition for review does not lie to cure an erroneous decision. An error apparent on face of the record is different from an erroneous decision. The term mistake or error apparent signifies that an error which is evident from the record of the case and does not require a detailed re-appreciation of materials on record. An erroneous decision cannot be corrected by resorting to Order XLVII CPC. In these circumstances, I am of the opinion that the JDR-1 has failed to make out a case so as to allow the petition. Accordingly I proceed to pass the following;

: ORDER :

The application filed by JDR-1 under Order XLVII Rule 1 R/W Section 151 of Code of Civil Procedure is hereby rejected.

(Computerized, corrected, revised, signed by me and then pronounced in open court, on this the 8th day of July 2022.)


(T.SRIKANTH)
 Prl. Senior Civil Judge
 Chikodi.

ORDERS ON IA-18 FILED BY JDR-1 UNDER SECTION 151 OF CPC.,

JDR-1 filed this application praying to recall the arrest warrant issued against him.

This execution petition is of the year 2001. The order sheet discloses that JDR has not paid balance amount to DHR as per the order of this court.



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As per order dated 18/11/2021 and 28/01/2022 this court directed the JDRs to make balance payment, inspite of the same JDRs have not made any payments. The conduct of JDRs before court clearly discloses that they intend to drag on the proceedings on one or the other pretext, without making payment. Hence, there are no good grounds to recall the arrest warrant issued against them. Accordingly IA-18 filed by JDR-1 is hereby rejected.

Call on 16/07/2022.


(T.SRIKANTH)

Prl. Senior Civil Judge
Chikodi.

Date :16/07/2022

Dhr-by -V.J.Gandhi

Jdr - 1-by - M.B.R.

Jdr-2-by B.R.Y.

Jdr-3-by-absent.

For - F/steps.