

MHST160013102018

**Order Below Exh.55 in R.C.S. No.87/2018****(Sanjeev Rajanprasad Shrivastav Vs. The
Head HR Garware Wall Ropes Ltd Pune
and ors.)**

This is an application filed by defendant under section 114 and Order XLVII Rule 1 of the Code of Civil Procedure 1908.

2. Through this application defendant submitted that this is the suit for mandatory injunction that to resume and reinstate defendant in their company's service with immediate effect.

3. Defendant prayed for the review of the order dated 23.04.2024 passed in R.C.S.No.87/2018 on following grounds.

1. This Court held that the authority cited by defendant are not applicable to present case.

2. There is an error on the face of record vide deciding the amendment application. Hearing of the suit has been started by holding that issues are framed at exh.26.

3. The Court wrongly hold the issue of jurisdiction is decided as exh.13 and 21.

4. Per contra plaintiff has filed his say at exh.57 and resisted the application. He contended that defendant neither giving any evidence nor physically present in court. Defendant wasting court time and mentally and physically harassed the plaintiff. This application is not maintainable. The nature of grounds of objection mentioned in the review application shows that there is no such mistake or error.

5. He further submitted that the application for review is barred by limitation. As per Article 124 of Limitation Act the period to file review

application is 30 days from the date of order. The order was passed on 23.04.2024. Hence, the application is not within limitation. Therefore he prayed to reject the said application with cost.

6. Following points arise for my determination. I have recorded my findings thereon for the reasons to be discussed hereinafter.

Sr.No.	Points		Findings
1.	Whether defendant is entitled for review as prayed?	...	No.
2.	What order?	...	As per final order.

REASONS

POINT NOS.1 and 2 :-

7. I heard advocates of both parties. Perused the record of the case. Perused documents submitted by plaintiff. Ld. Advocate of defendant submitted that this court has without any cogent and reasonable reason held that authorities cited by defendant are not applicable to present case. The hearing is started as issues framed at exh.26. Said observation is illegal as per various citations regarding the proviso of Order 6 Rule 17. Similarly this court wrongly hold the issue regarding jurisdiction was decided under Order 7 Rule 11. Hence there is error on face of record.

8. Per contra learned advocate of plaintiff has argued that there must be two senses. First is procedural review and another is related to legal proposition. Section 114 of C.P.C. is related to discovery of any mistake or error apparent on face of record. The grounds mentioned by defendant are not of review. Similarly the application is not within limitation. Hence application rejected with cost.

9. I perused the record of the case. It is seen that, Exh.48 is decided on merits. Said application is rejected on 23.04.2024.

10. It is taking into consideration the grounds of review –
- 1) Mistake apparently on face of record,
 - 2) new or additional evidence came on record. It is seen that there is mistake on face of record of the order.

11. It is seen that the grounds mentioned by defendant in review application are not the grounds of review. Hence, there is no need to review the said order. It is also seen that defendant had filed an application below Exh.59 for condoning delay of review application. There was delay of 35 days to file the application of review. Said application was given by defendant after filing review application. Therefore the application for review is not maintainable. Considering the record, the application of defendant is vexatious. It delayed the proceedings of the Court. Hence, compensatory cost should be awarded.

12. Considering above discussion, I answer point no.1 is in negative. For answer point no. 2, I pass following order:

ORDER

1. The application is rejected.
2. Defendant do pay compensatory cost of Rs.2000/- to plaintiff.
3. Parties to proceed the matter expeditiously.

Date:18.10.2024

Place: Wai

(S. S. Palsule)

3rd Jt. Civil Judge Jr. Dn. Wai.