

Misc DJ No. 102/26
CNR No. DLWT01-001140-2026
GUNWANT KAUR SETHI (NOW DECEASED)
VS
KULBIR KAUR

26.02.2026

Present: Sh P K Rawal, counsel for applicant/plaintiff.

1. By means of an application under Order XLVII r/w Section 151 of CPC, applicant/plaintiff has sought review in the judgment dated 23.12.2025 passed by this court in case titled as **“Gunwant Kaur Sethi, through LRs Vs. Kulbir Kaur”**, (*hereinafter referred as the ‘the impugned judgment’*).
2. Submissions of the applicant/plaintiff heard. Notice was not issued as the defendant was ex-parte in the matter. Record perused.
3. Before deciding the above application, I deem appropriate that the law on review be discussed which is provided under Order 47 Rule 1 of The Code of Civil Procedure, 1908 and the same is reproduced hereunder:-

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 or 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 on account of some mistake or error apparent on the face of the record or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the Court which passed the decree or made the order.

(2) A party who is not appealing from a decree or order may apply for a review of judgment notwithstanding the pendency of an appeal by some other party except where the ground of such appeal is common to the applicant and the appellant, or when, being respondent, he can present to the Appellate Court the case on which he applied for the review.

[Explanation.—The fact that the decision on a question of law on which the judgment of the Court is based has been reversed or modified by the subsequent decision of a superior Court in any other case, shall not be a ground for the review of such judgment.]

4. Hence from the language of Order 47 Rule 1 CPC, it is clear that the scope of review is very limited for the purpose of determining any error apparent on the face of the record. The provisions of review cannot be invoked for the purpose of

challenging any judgment which has already been passed by the trial court on merits. If in the case any of the party is not satisfied with the reasoning given by the court in the judgment then for that purpose the door of appeal is always available for the aggrieved party and avail appropriate remedy before the appellate court.

5. Reliance is placed upon the decision of Hon'ble Supreme Court in ***S Murali Sundaram Vs. Jothibai Kannan and Ors***, Civil Appeal Nos. 1167-1170 OF 2023 and observed as:-

5.1 While considering the aforesaid issue two decisions of this Court on Order 47 Rule 1 read with Section 114 CPC are required to be referred to? In the case of Perry Kansagra (supra) this Court has observed that while exercising the review jurisdiction in an application under Order 47 Rule 1 read with Section 114 CPC, the Review Court does not sit in appeal over its own order. It is observed that a rehearing of the matter is impermissible in law. It is further observed that review is not appeal in disguise. It is observed that power of review can be exercised for correction of a mistake but not to substitute a view. Such powers can be exercised within the limits of the statute dealing with the exercise of power. It is further observed that it is wholly unjustified and exhibits a tendency to rewrite a judgment by which the controversy has been finally decided. After considering catena of

decisions on exercise of review powers and principles relating to exercise of review jurisdiction under Order 47 Rule 1 CPC this Court had summed upon as under:

“(i) Review proceedings are not by way of appeal and have to be strictly confined to the scope and ambit of Order 47 Rule 1 CPC.

(ii) Power of review may be exercised when some mistake or error apparent on the face of record is found. But error on the face of record must be such an error which must strike one on mere looking at the record and would not require any long-drawn process of reasoning on the points where there may conceivably be two opinions.

(iii) Power of review may not be exercised on the ground that the decision was erroneous on merits.

(iv) Power of review can also be exercised for any sufficient reason which is wide enough to include a misconception of fact or law by a court or even an advocate.

(v) An application for review may be necessitated by way of invoking the doctrine *actus curiae neminem gravabit*.”

6. By way of amendment as sought by way of present application, applicant/plaintiff has sought correction to the extent of period of damages/use and occupation charges @ Rs. 49,000/- per month w.e.f 01.01.2018 till 11.11.2021 alongwith interest @ 6 % per annum till realization.

7. It is noted that in the present case, the plaintiff has been held entitled to a decree of Rs. 49,000/- per month from 01.01.2018 till 28.02.2018. The said observation has been made as an adjudication upon issue no.1 framed in the matter. However, it is rightly pointed out by the counsel for the plaintiff that plaintiff had sought the following prayer in her suit;
“pass a decree for a sum of Rs.3,00,000/- in favour of the plaintiff and against the defendant being the damages/use and occupation charges w.e.f 01.01.2018 to 28.02.2018 with same rate of damages till the vacation and handing over the possession of the suit property”.
8. It is rightly pointed out that the plaintiff had sought occupation charges in respect of the suit property till the vacation and handing over of the possession of the suit property. Though a specific issue has not been framed in the present matter in this respect, however, it is a settled preposition that in case, a tenant refuses to vacate the tenanted premises after his tenancy is terminated, he becomes a trespasser and liable to pay the landlord mesne profits. These are to be assessed accordingly to the reasonable prevailing rent of the premises. If the rent represents a fair value, mesne profits may be assessed at the amount of rent but if the real value is higher than the rent, mesne profits must be assessed at a higher value.

9. Accordingly, the present application under Order XLVII r/w Section 151 of CPC stands allowed and the following relief is granted to the plaintiff:-

(i) Plaintiff is entitled to a decree of Rs. 49,000/- (Rupees Forty Nine Thousand only) per month from 01.01.2018 till 11.11.2021 alongwith simple pendente lite and future interest @ 6 % per annum.

(ii) Cost of the suit is also awarded to the plaintiff.

10. It is clarified that the impugned judgment dated 23.12.2025 and order-sheet of the said date shall be read in conjunction with the present order.

11. Decree-sheet be prepared in main case file bearing CS No.252/18 and having present application no. M No.102/26, after filing of deficient court fees, if any.

12. Application file be attached with the main case file. Thereafter, application file and main case file be consigned to Record Room as per rules.

(Goma Dabas Gupta)
District Judge-06
West District, Tis Hazari Courts
Delhi/26.02.2026