

11 Misc DJ 682/26
Sunny Gupta Vs. Digvijay Chawla

04.07.2026

Present Shri Parth Mahajan, Ld. Counsel for applicant through VC.

Today the matter is listed for orders.

Arguments have already been heard.

By this common order, the Court shall decide (i) the application under Section 5 of the Limitation Act seeking condonation of delay in filing the review petition and (ii) the review petition preferred under Section 114 read with Order XLVII Rule 1 CPC seeking review of the judgment dated 23.04.2026 whereby the plaint was rejected under Order VII Rule 11(d) CPC as being barred by limitation.

Application under Section 5 of the Limitation Act

The applicant submits that there is a delay of approximately twelve days in filing the review petition. It is pleaded that after pronouncement of the judgment, legal opinion had to be obtained, the authorities relied upon required examination, the review petition had to be drafted, and the applicant remained outside the city for execution of pleadings.

Ld. Counsel has relied upon Collector, *Land Acquisition, Anantnag v. Mst. Katiji, (1987) 2 SCC 107* and *N. Balakrishnan v. M. Krishnamurthy, (1998) 7 SCC 123*.

The principles governing Section 5 of the Limitation Act are well settled. A liberal approach is ordinarily adopted where sufficient cause is shown and the delay is neither deliberate nor mala fide. The delay involved in the present matter is short. The explanation furnished does

not appear to be lacking in bona fides. Accordingly, in the interest of substantial justice, the delay in filing the review petition is condoned. The application under Section 5 of the Limitation Act stands **allowed**.

Review Petition

Submissions of the Review Petitioner.

The review petitioner submits that while deciding limitation this Court failed to consider a binding proposition contained in ***Ram Janki Devi v. Juggilal Kamlapat, (1971) 1 SCC 477***. It is argued that the Supreme Court held that limitation commences only upon an unconditional demand for the whole amount and that a partial demand cannot trigger limitation.

It is further argued that the communications of 2021 and 2022 constituted merely partial demands during a continuing financial arrangement, whereas the first complete demand for the entire reconciled liability was made only on 07.07.2023. Consequently, according to the review petitioner, the suit instituted in January 2026 was within limitation. It is also contended that the issue of limitation involved disputed questions of fact and, therefore, the plaint ought not to have been rejected under Order VII Rule 11 CPC.

Reliance has been placed upon ***Collector, Land Acquisition Anantnag and another v. Mst. Katiji and others (1987) 2 SCC 107, Commissioner of Customs v. Canon India Private Limited (2025) 4 SCC 509, N. Balakrishnan v. M. Krishnamurthy (1998) 7 SCC 123, Ram Janki Devi and another v. M/s Juggilal Kamlapat 1971 (1) SCC 477, Tinkari Sen and others v. Dulal Chandra Das and others 1966***

SCC Online Cal 103, Nihar Ranjan Biswas v. The State of West Bengal 2016 SCC Online Cal 4600, The Selection Committee for Admission to the Medical and Dental College, Bangalore v. M.P. Nagaraj 1971 SCC Online Kar 133, Ravi Sahni v. Pomesah Sahni 2016 SCC Online Del 4519 and Subbiah Chetty v. Visalakshi Achi appeal No. 204 of 1928.

Court observations and findings

The jurisdiction under Section 114 read with Order XLVII Rule 1 CPC is extremely limited. Review is not an appeal in disguise. An erroneous decision is not necessarily an error apparent on the face of the record. The Court exercising review jurisdiction cannot re-appreciate evidence or reconsider the merits merely because another view is possible.

The Constitution Bench of the Hon'ble Supreme Court in ***Moran Mar Basselios Catholicos v. Most Rev. Mar Poulouse Athanasius, AIR 1954 SC 526***, held that review is confined to the grounds specifically enumerated under Order XLVII Rule 1 CPC. In ***Thungabhadra Industries Ltd. v. Government of Andhra Pradesh, AIR 1964 SC 1372***, the Hon'ble Supreme Court held that where two views are possible and one has already been adopted, review cannot be invoked merely because another view is also possible. In ***Kamlesh Verma v. Mayawati, (2013) 8 SCC 320***, the Hon'ble Supreme Court exhaustively summarized the law and held that review is maintainable only where there exists an error apparent on the face of the record and not for rehearing of the matter on merits. Likewise, in ***Lily Thomas v. Union of India, (2000) 6 SCC 224***, it was reiterated that review cannot be used to substitute one view for

another.

Whether there exists any error apparent on the face of the record. The principal submission of the review petitioner is that this Court failed to consider the concluding observations in ***Ram Janki Devi*** relating to partial demand. This submission cannot be accepted. A perusal of the order dated 23.04.2026 clearly shows that this Court expressly noticed the reliance placed upon ***Ram Janki Devi (supra)***.

The order thereafter considered the applicability of Article 22 of the Limitation Act and specifically held that even assuming the principle relating to money payable on demand were applicable, the plaint itself disclosed that repayment had already been demanded in the year 2022 and, according to oral submissions, even in 2021. Thus, the precedent cited by the plaintiff was not ignored. Rather, the Court distinguished the said judgment on facts.

Once a precedent has been noticed and interpreted, the contention that the Court ought to have assigned greater weight to another paragraph of the same judgment amounts to inviting the Court to reconsider the correctness of its earlier reasoning. Such exercise falls squarely within appellate jurisdiction and not review jurisdiction. The review petitioner is essentially requesting the Court to substitute its earlier interpretation of ***Ram Janki Devi*** with another interpretation favourable to him. Such exercise is impermissible in review proceedings.

Whether the earlier demands were only partial demands

Even otherwise, the submission regarding partial demand does not advance the case of the review petitioner. The plaint itself specifically

pleaded that in the year 2022 the plaintiff demanded repayment of the amounts advanced and that the defendant sought two years' time for repayment.

Paragraph 6 of the plaint further pleaded that despite repeated assurances the defendant subsequently denied liability. Thus, according to the plaint itself, repayment had already been demanded and default had already occurred much before July 2023.

Whether such demand related to one transaction or several transactions, whether the accounts were completely reconciled, or whether the plaintiff intended only a partial recovery are all matters requiring appreciation of pleadings and surrounding circumstances. These are arguments directed against the correctness of the findings recorded in the judgment dated 23.04.2026. They do not disclose any patent error apparent on the face of the record. The judgment had proceeded on the express averments contained in the plaint. Review jurisdiction cannot be exercised for permitting a party to explain away admissions contained in the original pleadings.

Applicability of Ram Janki Devi case

The reliance placed upon ***Ram Janki Devi*** is also misplaced for another reason. The observations extracted by the review petitioner were made in the peculiar context of money deposited under an agreement payable on demand. In the present plaint, the plaintiff repeatedly characterized the transactions as "friendly loans".

The plaint did not disclose any contract creating a deposit payable on demand. Even assuming Article 22 were applicable, the Court had

already accepted the plaintiff's own submission regarding demand-based limitation and still concluded that demand had admittedly been made in 2022. Therefore, the alleged omission regarding one passage of **Ram Janki Devi** would not alter the ultimate conclusion reached in the judgment.

Limitation under Order VII Rule 11 CPC

The review petitioner next contended that limitation involved mixed questions of law and fact. The proposition is undoubtedly correct as an abstract principle. However, it is equally well settled that where the plaint itself discloses that the suit is barred by limitation, rejection under Order VII Rule 11(d) CPC is mandatory.

The Hon'ble Supreme Court in **Hardesh Ores (P) Ltd. v. Hede and Company, (2007) 5 SCC 614**, held that where the bar of limitation is evident from the plaint itself, rejection under Order VII Rule 11(d) CPC is justified. Likewise, in **Dahiben v. Arvindbhai Kalyanji Bhanusali, AIR 2020 SC 3310**, it was held that if from a meaningful reading of the plaint the suit appears to be barred by limitation, the Court is duty bound to reject the plaint. The order dated 23.04.2026 proceeded entirely on the pleadings contained in the plaint and documents filed therewith. No external material was relied upon. Consequently, the challenge raised in the review petition again seeks reconsideration of the merits and not correction of an apparent error.

Authorities cited

The case laws relied upon by the review petitioner regarding liberal interpretation of review jurisdiction, commencement of limitation, or

condonation of delay have been considered. None of those case laws lays down that whenever another possible interpretation of a cited precedent exists, review must necessarily be allowed. Equally, none of those case laws authorizes the review Court to reopen findings already rendered after considering the pleadings and submissions. The decisions cited, therefore, do not advance the case of the review petitioner.

Conclusion

The Court is satisfied that the judgment dated 23.04.2026 had considered the case laws cited by the plaintiff. The present petition seeks a different interpretation of those case laws. The review petitioner seeks reconsideration of the findings on limitation. No patent error apparent on the face of the record has been demonstrated. The review petition is, in substance, an attempt to obtain a rehearing on merits, which is impermissible in review jurisdiction.

The grounds urged by the review petitioner may, if otherwise available in law, constitute grounds in appellate proceedings. They do not fall within the limited scope of Order XLVII Rule 1 CPC. The application under Section 5 of the Limitation Act is **allowed** and the delay in filing the review petition is condoned. However, the review petition under Section 114 read with Order XLVII Rule 1 CPC stands **dismissed** being devoid of merits. Consequently, the judgment dated 23.04.2026 does not call for any review or recall. No order as to costs.

File be consigned to the Record Room.

SUSHEEL BALA DAGAR
DISTRICT JUDGE-08
WEST/DELHI/04.07.2026