

4. Priyadersini (Minor),
D/o. Sanal Kumar.A.S,
Anujalayam, Anayadi.P.O.,
Sooranadu North-690561.

(By Adv.Shri.Domanic Basil).

This petition coming on for final hearing before me 07.04.2026 and on the same day the Court passed the following.

ORDER

1. Instant petition is one filed under O. 47 R. 1 CPC, and petitioner seeks the review of the judgment of this Court dated 17/06/2022, whereby the OS 07/2017 was rejected for want of balance Court fees.
2. Instant review petition was filed with delay and IA.02/2025 was preferred by the petitioner for condoning the delay and IA.02/2025 was allowed on cost of ₹ 2,500/- which amount is seen deposited.
3. In support of the RP, the Counsel pointed out that the plaintiff

had handed over the entire Court fees at the time of the filing of the suit to the then Advocate, who failed and neglected to pay the balance Court fees before the Court, and that Counsel also failed in intimating the plaintiff about the posting dates and purpose of the posting. That Advocate even misled the plaintiff by saying that a settlement is reached outside the Court, and finally when the plaint was rejected the same was not communicated to the plaintiff. At last, plaintiff made personal inquires and came to know about the fate of his case and finally the vakkalath of the previous Advocate got relinquished. Now the plaintiff had remitted the balance court fees, it is said. Therefore, it is said that there was no willful laches from the side of the plaintiff, and it is prayed that the order rejecting the plaint be reviewed, in the interest of justice, lest plaintiff will be put to irreparable injury and loss.

4. The review petition is objected by the respondent. In that regard, the learned Counsel appearing for the respondent would submit that the petitioner was not vigilant, and according to him petitioner cannot be heard to say that he was under the impression that the entire Court fees was paid at the inception. It is said that though the higher Court vide order dated 21.12.2021 in AS.49/2021 permitted the petitioner to remit the BCF within three months of that order, the same was not complied and it is accordingly that this Court rejected the plaint for non payment of balance Court

fees vide order dated 17.06.2022. Therefore, there is no scope for allowing the review petition, it is submitted.

5. Now, the only point to be considered is whether the judgment dated 17/06/2022 can be reviewed for the reasons stated in the review petition.
6. Now, a reading of the judgment dated 17/06/2022 would show that the Court was concerned with the non remittance of the balance Court fees despite the grant of three months time by the District Court in AS.49/2022. Be that as it may, the rejection is one under O. VII R. 11(C) of CPC. In the matter of rejection under O. VII R. 11 (C) of CPC, the law is well settled. Rejection under O. VII R. 11 comes within the definition of decree. The mode of getting rid of a decree known to law, is either by way of an appeal or by way of a review, unless it be a decree that comes under O. IX of CPC. This position is fortified by the judgment of Hon'ble High Court of Kerala in “ **Joy K.M v. Princy Shaji**”, reported in 2018 (2) KHC 285.
7. Regarding the exercise of the power of review, Order XLVII R. 1 CPC is very much clear, and any person considering himself aggrieved by a decree or order from which an appeal is allowed, but from which no appeal has been preferred, 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. Now, in the case in hand, there is no mistake or error apparent on the face of the record and the suit/plaint was rightly rejected for want of BCF. However, it appears that the petitioner is stressing on the words, 'or for any other sufficient reason'. According to the petitioner, the BCF was not paid in time for the reason that they were under the wrong impression that the entire Court fees was paid at the time of the filing of the suit, and that though the entire Court fees was collected by the former Advocate the same was not paid and though extension of time was obtained as per order in AS.49/2021, the amount could not be raised within the permitted span of time. Undoubtedly, the fact that though the entire amount was collected by the former Advocate, the same was not remitted with the Court, which came to the notice of the plaintiff at a later stage, will fall within 'any other sufficient reason' mentioned in O. 47 R.1 CPC.

8. Now, the petitioner has tendered the balance Court fees before the Court, though without sanction petition. Therefore, in all fairness, instant petition is only to be allowed.

9. For the discussions above, instant petition stands allowed and the judgment dated 17/06/2022 is hereby reviewed. It follows, the suit (OS 07/2017) is restored to the file for disposal on merits.

(Dictated to the Typist, typed by him, corrected by me and pronounced in open Court on this the 07th day of April, 2026)

Sd/-
Santhosh Das
Civil Judge (Senior Division).

Appendix:- Nil.

Id/-
Civil Judge (Senior Division)

//True Copy//

Typed by : Sunil Kumar.S,
Compared by: Sini.G.

Civil Judge (Senior Division).