

**THE HON'BLE SRI JUSTICE RAVI NATH TILHARI  
&  
THE HON'BLE SRI JUSTICE MAHESWARA RAO KUNCHEAM**

**Review I.A. No.1 of 2025 in APPEAL SUIT NO: 158 of 2014**

**JUDGMENT:** (per Hon'ble Sri Justice Maheswara Rao Kuncheam)

Heard Sri V.R.Reddy Kovvuri, learned counsel appearing for the review petitioner and Sri Suresh Kumar Reddy Kalava, learned counsel appearing for respondent.

2. The Review Petitioners are the Appellants in AS No.158 of 2014. Respondent herein stood as Respondent.

3. The main Appeal was filed challenging the Order and Decree dated 26.11.2013 in O.S.No.46 of 2010 on the file of the learned VII Additional District Judge (FTC) Madanapalle, Chittoor District.

4. The AS No.158 of 2014 was dismissed vide Judgement and Decree dated 26-09-2025, against which the aforesaid Review Application has been filed.

5. **Facts of the case is as follows:**

a) Respondent herein has filed O.S.No.46 of 2010 on the file of the learned VII Additional District Judge (FTC) Madanapalle, Chittoor District, for the relief of specific performance of an Agreement of Sale dated 15.12.2008 executed by Defendants. The Suit has been decreed *vide* Judgement and Decree dated 26.11.2013. Aggrieved by the same, the Review

Petitioners/Appellants have filed AS No.158 of 2014 which was dismissed by this Court vide Judgement and Decree dated 26-09-2025.

b) Defendants/Appellants have filed this Review Petition under Section 114 CPC read with Order XLVII Rule 1 of CPC, seeking Review of the Judgement and Decree dated 29.09.2025 in AS No.158 of 2014 wherein the Appeal was dismissed by confirming the Judgement and Decree dated 26.11.2013 in OS No.46 of 2010 on the file of VII Additional District Judge (FTC) Madanapalle, Chittoor District.

c) Grounds urged in the Review Petition in brief are as under:

i) The correctness of the finding of the trial court regarding readiness and willingness on the part of the Plaintiff/Respondent,

ii) The entitlement of the plaintiff for the relief of Specific Performance in view of the demand for repayment of the sale consideration, having raised a suspicion regarding the right and title of the Appellants/Review Petitioners and

iii) Maintainability of the suit for the relief of specific performance, without seeking the relief of cancellation of Agreement of Sale. It is urged that though he did not advance any submissions regarding time being essence of the contract, this Court gave a finding regarding time not being essence of contract and for all the above reasons, the judgement is to be reviewed.

d) It is urged in the grounds of Review that this Court held that the Plaintiff/Respondent was ready and willing to perform his part of the contract on the ground that Defendants did not specifically deny the claim of the Plaintiff in para No.12 of the Plaint that he was ready and willing to perform his part of the contract and that the said finding was given despite the plea of the Defendants in the written statement that they were ready and willing to perform their part of the contract if the plaintiff is ready to pay enhanced amount as per the prevailing market value as agreed to in the presence of the elders and mediators and as such, the judgement is required to be reviewed.

e) It is further urged in the grounds of Review Petition that while deciding the question whether the plaintiff was ready and willing to perform his part of the contract, the conduct of the Plaintiff prior to and subsequent to filing of the suit has to be considered and that the Plaintiff has issued Notices dated 02.04.2009, 13.04.2009, 25.11.2009 and 17.05.2010 which were marked as Ex.A9, Ex.A14, Ex.A25 and Ex.A30, demanding repayment of advance amount on the ground that the defendants have no title over the property and such conduct shows that the Plaintiff was not ready and willing to perform his part of the contract and that this Court gave findings without referring to Ex.A9, Ex.A14, Ex.A25 and Ex.A30 and without referring to the law laid down in ***Bukkapatnam Khalandar Basha Vs Basi Reddy Vijayamma***<sup>1</sup>, which was confirmed in SLP (C) No.10228 of 2020 and therefore, the finding of this Court requires to be reviewed.

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<sup>1</sup> MANU/AP/0734/2020

d) It is lastly urged in the Grounds of Review Petition that it is an established principle of law that it is the duty of the trial court to satisfy itself that facts including jurisdictional fact are established irrespective of the fact whether the parties have raised contentions regarding such jurisdictional facts or not and that the issue whether a suit is maintainable or not is a legal issue which can be raised at any time, without any pleading or evidence as held by the Apex Court in ***R. Kandasamy (died) and Others Vs T.R.K Sarawathy***<sup>2</sup> and followed in the case of ***Sangitha Sinha Vs Bhawana Bharadwaj and Others***<sup>3</sup> and as such, finding recorded by this Court in this regard requires to be reviewed.

6. During the course of hearing, Sri V.R.Reddy Kovvuri, learned counsel for the Review Petitioners, has advanced the following submissions:

i) With respect to the points for consideration framed in paragraph No.37 of the appellate judgment, he submits that no arguments were advanced on point Nos.1 and 3.

ii) On a specific query posed by the Court as to the above submission, learned counsel submits that issue Nos.1 and 3 were framed by the Trial Court and findings thereon were recorded against the Appellants/Defendants and that however, those findings were not challenged during the course of arguments in the Appeal.

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<sup>2</sup> (2025) 3 SCC 513

<sup>3</sup> 2025 OnLine SC 723

iii) With respect to point No.2, namely, whether the Plaintiff was always ready and willing to perform his obligations under the Agreement, learned counsel submits that the said point was not considered from the perspective of the plaintiff's conduct and that the judgment relied upon by him on that aspect was also not considered.

iv) Learned counsel further submits that the suit for specific performance, without seeking the relief of cancellation or revocation of the Agreement of Sale, was not maintainable and that this aspect was also not considered.

7. Learned counsel for the Review Petitioners submitted that, apart from the aforesaid grounds, there are no other grounds on which the judgment in the appeal is sought to be reviewed.

8. Conversely, learned counsel for the respondent stated that, the very filing of the Review Petition is *per se* illegal and valid, as the appellants are not able to establish that their espoused grounds do not fall within the parameters of review.

9. Before examining the contention put forth in the Review Petitioners, it would be profitable to refer to the statutory provisions regarding Review Jurisdiction i.e., Section 114 CPC which is as under:

**114. Review:**

*Subject as aforesaid, any person considering himself aggrieved-*

a) *by a decree or order from which an appeal is allowed by this Code, but from which no appeal has been preferred.*

*b) by a decree or order from which no appeal is allowed by this Code, or*

*c) by a decision on a reference from a Court of Small Causes, may apply for a review of judgment to the Court which passed the decree or made the order, and the Court may make such order thereon as it thinks fit.*

10. It is apt to refer the provision of Order XLVII of CPC, which reads as follows:

*Order XLVII of Code of Civil Procedure 1908*

*1. Application for review of judgment-*

*i) Any person considering himself aggrieved-*

*(a) by a decree or order from which an appeal is allowed, but from 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 applies for the review.*

11. A Plain reading of the above statutory provisions would define and delineate the scope of review jurisdiction. In a recent decision of the Apex Court in ***Malleeswari vs. K. Suguna and Others***<sup>4</sup>, the scope and ambit of review jurisdiction has been vividly discussed. For the sake of reference, relevant portion is extracted hereunder:

*“1. The review jurisdiction cannot be assumed unless it is conferred by law on the authority or the Court. Section 114 and Order 47, Rule 1 of CPC deal with the power of review of the courts. The power of review is different from appellate power and is subject to the following limitations to maintain the finality of judicial decisions.*

*2. The review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of Order 47 Rule 1 of CPC.*

*3. Review is not to be confused with appellate powers, which may enable an appellate court to correct all manner of errors committed by the subordinate court.*

*4. In exercise of the jurisdiction under Order 47 Rule 1 of CPC, it is not permissible for an erroneous decision to be reheard and corrected. A review petition, it must be remembered, has a limited purpose and cannot be allowed to be an appeal in disguise.*

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<sup>4</sup> 2025 SCC OnLine SC 1927

5. *The power of review can be exercised for the correction of a mistake but not to substitute a view. Such powers can be exercised within the limits specified in the statute governing the exercise of power*

6. *The review court does not sit in appeal over its own order. A rehearing of the matter is impermissible. It constitutes an exception to the general rule that once a judgment is signed or pronounced, it should not be altered. Hence, it is invoked only to prevent a miscarriage of justice or to correct grave and palpable errors.*

7. *To wit, through a review application, an apparent error of fact or law is intimated to the court, but no extra reasoning is undertaken to explain the said error. The intimation of error at the first blush enables the court to correct apparent errors instead of the higher court correcting such errors. At both the above stages, detailed reasoning is not warranted.”*

12. As regards review on the ground of mistake or error apparent on the face of the record, it is held in the said decision that such power may be invoked, if there is something more than a mere error, and it must be the one which is manifest on the face of the record and such an error is a patent error and not a mere wrong decision. It is held that an error which has to be established by a long-drawn process of reasoning on points where there may conceivably be two opinions can hardly be said to be an error apparent on the face of record and that lastly, the phrase '*for any other sufficient reason*' means a reason that is sufficient on grounds at least analogous to those specified in the other two categories.

13. Notably in another judgement in ***Government of Andhra Pradesh and Others Vs. P.Dilli Kumar***<sup>5</sup> (to which one of us RNT,J is a party). In this judgement, the grounds on which review is not maintainable have been elucidated at para-20.2, which reads as follows:

*20.2. When the review will not be maintainable:*

- i) A repetition of old and overruled argument is not enough to reopen concluded adjudications.*
- ii) Minor mistakes of inconsequential import.*
- iii) Review proceedings cannot be equated with the original hearing of the case*
- iv) Review is not maintainable unless the material error, manifest on the face of the order, undermines its soundness or results in miscarriage of justice.*
- v) A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected but lies only for patent error.*
- vi) The mere possibility of two views on the subject cannot be a ground for review*
- vii) The error apparent on the face of the record should not be an error which has to be fished out and searched*
- viii) The appreciation of evidence on record is fully within the domain of the appellate court; it cannot be permitted to be advanced in the review petition.*

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<sup>5</sup> 2024 SCC OnLine AP 3846

*ix) Review is not maintainable when the same relief sought at the time of arguing the main matter had been negated.*

14. Now we proceed to examine whether there are any grounds for exercising Review Jurisdiction in this case, in the light of the above principles.

a) We are of the opinion that with regard to Ground No.1, it is always open to the parties to give up or abandon any of the grounds urged in the Memorandum of Appeal and as long as the Grounds are not given up or abandoned by the parties, it is incumbent upon the Appellate Court to refer to such grounds and to give a finding. It is not the case of the Review Petitioners that they informed the Court that they have given up the Ground Nos.11 and 12 urged in the Memorandum of Grounds of Appeal, regarding time and essence of the contract. Now, if such contentions can be entertained in the Review Jurisdiction, one would come up with a contention that the grounds urged in the Memorandum of Grounds has not been adverted to and decided by the Appellate Court. Hence, the said ground is not at all a ground for exercising review jurisdiction.

b) As regards Ground No.2 urged by the learned counsel for the Review Petitioners, the issue of the Plaintiff's readiness and willingness to perform his obligations under the agreement was not considered from the perspective of the plaintiff's conduct and that the judgment relied upon by the counsel on that aspect was not considered, even if the said contention is accepted, would not trip into Review scope as per the settled legal principles. In other words,

Review jurisdiction is confined to correcting an error apparent on the face of the record and cannot be invoked for reappreciation of evidence or reconsideration of the merits of the case. An error apparent is one that is self-evident and does not require a detailed examination or fresh appreciation of evidence. It is well settled that review cannot be exercised merely because another view is possible or because a party seeks a rehearing on the merits. In any event, the conduct of the parties with reference to the documentary evidence, including Exs.A9, A14, A25 and A30, has already been considered conceptually and discussed in paragraph Nos.48, 49 and 50 of the Judgment. Accordingly, the said contention does not disclose any error apparent on the face of the record warranting review.

c) Ground No.3 relates to a finding regarding maintainability of the suit in the absence of any relief for declaration concerning the notice of Termination of Contract, is not sought for and that the same is a jurisdictional fact and that this Court ignored the precedents in ***R.Kandasamy's case*** and followed in ***Sangeetha Sinha's case***.

15. After going through the dictums referred supra, we have observed that in the facts and circumstances of the case, there is a need for appropriate pleadings and clear evidence with regard to foundational facts. Suffice it to say that despite the issue of Ex.A14-Notice dated 13-04-2009, the Review Petitioners accept performance of contract and executed Ex.A17-Sale Deed dated 13.04.2009 and accept payments under Ex.A27-Receipt dated 02.12.2009 and Ex.A29-Receipt dated 10.02.2010. Even after issuance of

Ex.B4-Notice dated 02.08.2010, cancelling the contract, Review Petitioners have filed their Written Statement with a plea that they are ready and willing to perform their part of the contract and in fact they have also prayed the court to direct the Plaintiff to get a Sale Deed, after payment of the balance, as per the prevailing market value.

16. Under these circumstances, it was observed that there ought to be a proper pleading with regard to the maintainability of the suit, without seeking a relief of declaration regarding the validity of Ex.B4-Notice, so that the opposite party would have an opportunity to contest the claim and a proper finding could be arrived at. Hence, we do not see any reason to interfere with the said finding under Review Jurisdiction.

17. Accordingly, the Review Application is dismissed. There shall be no order as to costs.

Interlocutory applications, if any, pending shall stand closed.

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**JUSTICE RAVI NATH TILHARI**

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**JUSTICE MAHESWARA RAO KUNCHEAM**

Date: 18.08.2026  
PSA

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