

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA****Review Petition No. : 110 of 2025****Decided on : 06.05.2026**

Kanta Devi

...Petitioner

Versus

Bhupender Pal and others

...Respondents

Coram

The Hon'ble Mr. Justice Virender Singh, Judge.

Whether approved for reporting?¹

For the petitioner : Mr. Sanjeev Kuthiala, Senior Advocate, with Ms. Tamanna Sharma, Advocate.

For the respondents : Mr. Bimal Gupta, Senior Advocate, with Ms. Kusum Chaudhary and Mr. Trigun Singh Negi, Advocates, for respondent No. 1 to 4.

None for other respondents.

Virender Singh, Judge. *(Oral)*

Petitioner-Kanta Devi has filed the present review petition, under Order 47 Rule 1 read with Section 114 of the Code of Civil Procedure (hereinafter referred to as 'CPC'), seeking review of the judgment, dated 22nd

¹ *Whether Reporters of local papers may be allowed to see the judgment? Yes.*



September, 2025, passed in RSA No. 160 of 2016, titled as Kanta Devi versus Bhupinder Pal and others.

2. As per the factual position, RSA No. 160 of 2016, filed by petitioner-Kanta Devi, was admitted for hearing on 9th August, 2016, on the following substantial question of law:

“1. Whether the possession of a person permissive or otherwise has to be protected by the grant of the relief of mandatory and prohibitory injunction and dispossession has to be made in accordance with law and whether denial of such relief by the courts below is proper?”

3. After hearing the learned counsel for the parties, the said appeal was dismissed, by this Court, on 22nd September, 2025.

4. The said judgment of this Court has been sought to be reviewed, on the ground, that during the pendency of the appeal, the petitioner had filed an application, under Order 41 Rule 27 CPC, being CMP No. 2584 of 2022, for placing on record the factum of tenancy of one Jalpu, commencing since 1960 and also Khasra Girdawari, for the year 2010-2011.

5. According to the petitioner, in the Khasra Girdawari, the factum of construction of shops and house



on Khasra No. 332, has duly been recorded, whereas Khasra No. 331 has been shown as vacant.

6. As per the further stand of the petitioner, the said application has not been considered by this Court, whereas, on 22nd March, 2022, an order has been passed that the said application would be considered at the time of final decision of the case.

7. It has been mentioned in the petition that while deciding the case on 22nd September, 2025, this Court has held that all the pending applications stand disposed of, however, the said application has not been decided.

8. In nutshell, non-deciding the application, under Order 41 Rule 27 CPC, by this Court, while deciding the RSA, is stated to be '*mistake or error apparent on the face of the record*'.

9. Despite various opportunities given to the appearing respondents, reply has not been filed by them.

10. Heard.

11. Perusal of the judgment, dated 22nd September, 2025, passed in RSA No. 160 of 2016, demonstrates that this Court, while deciding the appeal, has specifically held



that all the pending applications, if any, also stand disposed of. Meaning thereby, the application, under Order 41 Rule 27 CPC has also been dismissed.

12. Moreover, non-deciding the application, under Order 41 Rule 27 CPC separately, to the considered opinion of this Court, does not fall within the terminology '*mistake or error apparent on the face of the record*', as, the Hon'ble Supreme Court, in case, titled as **Parsion Devi and others versus Sumitri Devi and others**, reported in **(1997) 8 Supreme Court Cases 715**, has held that even, an erroneous decision does not fall within the definition of '*mistake or error apparent on the face of the record*'. In this regard, reference can be made to paras 7 to 9, of the judgment, which read, as under:

"7. It is well settled that review proceedings have to be strictly confined to the ambit and scope of Order 47 Rule 1 CPC. In Thungabhadra Industries Ltd. v. Govt. of A.P., AIR 1964 SC 1372, this Court opined:

"What, however, we are now concerned with is whether the statement in the order of September 1959 that the case did not involve any substantial question of law is an 'error apparent on the face of the record'. The fact that on the earlier occasion the Court held on an identical state of facts that a substantial question of law arose would not per se



be conclusive, for the earlier order itself might be erroneous. Similarly, even if the statement was wrong, it would not follow that if was an 'error apparent on the face of the record', for there is a distinction which is real, though it might not always be capable of exposition, between a mere erroneous decision and a decision which could be characterised as vitiated by 'error apparent'. A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected, but lies only for patent error."

(emphasis ours)

8. Again, in *Meera Bhanja v. Nirmala Kumari Choudhury* (1995) 1 SCC 170, while quoting with approval a passage from *Aribam Tuleshwar Sharma v. Aribam Pishak Sharma* (1979) 4 SCC 389, this Court once again held that 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 CPC.

9. Under Order 47 Rule 1 CPC a judgment may be open to review inter alia if there is a mistake or an error apparent on the face of the record. An error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of the record justifying the court to exercise its power of review under Order 47 Rule 1 CPC. In exercise of the jurisdiction under Order 47 Rule 1 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".

13. In a recent decision in **S. Madhusudhan Reddy versus V. Narayana Reddy and others**, reported in (2022) 17 Supreme Court Cases 255, a three Judge Bench of the



Hon'ble Supreme Court, has again elaborately discussed the provisions of Order 47 Rule 1 CPC. Relevant paras 24 to 33, of the said judgment, are reproduced, as under:

24. It is also settled law that in exercise of review jurisdiction, the Court cannot reappreciate the evidence to arrive at a different conclusion even if two views are possible in a matter. In Kerala State Electricity Board v. Hitech Electrothermics & Hydropower Ltd. and Others, (2005) 6 SCC 651, this Court observed as follows: (SCC p. 656, para 10)

“10.In a review petition it is not open to this Court to reappreciate the evidence and reach a different conclusion, even if that is possible. Learned counsel for the Board at best sought to impress us that the correspondence exchanged between the parties did not support the conclusion reached by this Court. We are afraid such a submission cannot be permitted to be advanced in a review petition. The appreciation of evidence on record is fully within the domain of the appellate court. If on appreciation of the evidence produced, the court records a finding of fact and reaches a conclusion, that conclusion cannot be assailed in a review petition unless it is shown that there is an error apparent on the face of the record or for some reason akin thereto. It has not been contended before us that there is any error apparent on the face of the record. To permit the review petitioner to argue on a question of appreciation of evidence would amount to converting a review petition into an appeal in disguise.”

(emphasis added)

25. Under the garb of filing a review petition, a party cannot be permitted to repeat old and overruled arguments for reopening the



conclusions arrived at in a judgment. The power of review is not to be confused with the appellate power which enables the Superior Court to correct errors committed by a subordinate Court. This point has been elucidated in Jain Studios Ltd. V. Shin Satellite Public Co. Ltd., (2006) 5 SCC 501, where it was held thus: (SCC pp. 504-505, paras 11-12)

“11. So far as the grievance of the applicant on merits is concerned, the learned counsel for the opponent is right in submitting that virtually the applicant seeks the same relief which had been sought at the time of arguing the main matter and had been negatived. Once such a prayer had been refused, no review petition would lie which would convert rehearing of the original matter. It is settled law that the power of review cannot be confused with appellate power which enables a superior court to correct all errors committed by a subordinate court. It is not rehearing of an original matter. A repetition of old and overruled argument is not enough to reopen concluded adjudications. The power of review can be exercised with extreme care, caution and circumspection and only in exceptional cases.

12. When a prayer to appoint an arbitrator by the applicant herein had been made at the time when the arbitration petition was heard and was rejected, the same relief cannot be sought by an indirect method by filing a review petition. Such petition, in my opinion, is in the nature of 'second innings' which is impermissible and unwarranted and cannot be granted.”

(emphasis added)

26. After discussing a series of decisions on review jurisdiction in Kamlesh Verma v. Mayawati and Others, (2013) 8 SCC 320, this Court observed that review proceedings have to



be strictly confined to the scope and ambit of Order XLVII Rule 1, CPC. As long as the point sought to be raised in the review application has already been dealt with and answered, parties are not entitled to challenge the impugned judgment only because an alternative view is possible. The principles for exercising review jurisdiction were succinctly summarized in the captioned case as below: (SCC pp. 333-34, para 20)

“20. Thus, in view of the above, the following grounds of review are maintainable as stipulated by the statute:

20.1. When the review will be maintainable:

(i) Discovery of new and important matter or evidence which, after the exercise of due diligence, was not within knowledge of the petitioner or could not be produced by him;

(ii) Mistake or error apparent on the face of the record;

(iii) Any other sufficient reason.

The words “any other sufficient reason” has been interpreted in Chajju Ram vs. Neki, 1922 SCC OnLine PC 11, and approved by this Court in Moran Mar Basselios Catholicos vs. Most Rev. Mar Poulouse Athanasius & Ors., (1954) 2 SCC 42, to mean “a reason sufficient on grounds at least analogous to those specified in the rule”. The same principles have been reiterated in Union of India v. Sandur Manganese & Iron Ores Ltd. & Ors., (2013) 8 SCC 337.

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 re-heard 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.*

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

27. *In Aribam Tuleshwar Sharma v. Aribam Pishak Sharma, (1979) 4 SCC 389, this Court was examining an order passed by the Judicial Commissioner who was reviewing an earlier judgment that went in favour of the appellant, while deciding a review application filed by the respondents therein who took a ground that the predecessor Court had overlooked two important documents that showed that the respondents were in possession of the sites through which*



the appellant had sought easementary rights to access his home stead. The said appeal was allowed by this Court with the following observations: (SCC p. 390, para 3)

“3 ...It is true as observed by this Court in Shivdeo Singh and Others v. State of Punjab, 1963 SC 1909, there is nothing in Article 226 of the Constitution to preclude a High Court from exercising the power of review which inheres in every court of plenary jurisdiction to prevent miscarriage of justice or to correct grave and palpable errors committed by it. But, there are definitive limits to the exercise of the power of review. The power of review may be exercised on the discovery of new and important matter or evidence which, after the exercise of due diligence was not within the knowledge of the person seeking the review or could not be produced by him at the time when the order was made; it may be exercised where some mistake or error apparent on the face of the record is found; it may also be exercised on any analogous ground. But, it may not be exercised on the ground that the decision was erroneous on merits. That would be the province of a court of appeal. A power of review is not to be confused with appellate power which may enable an appellate court to correct all manner of errors committed by the subordinate court.”

(emphasis added)

28. In State of West Bengal and Others v. Kamal Sengupta and Another, (2008) 8 SCC 612, this Court emphasized the requirement of the review petitioner who approaches a Court on the ground of discovery of a new matter or evidence, to demonstrate that the same was not within his knowledge and held thus: (SCC p. 633, para 21)

“21. At this stage it is apposite to observe that where a review is sought on the ground of discovery of new matter or



*evidence, such matter or evidence must be relevant and must be of such a character that if the same had been produced, it might have altered the judgment. In other words, mere discovery of new or important matter or evidence is not sufficient ground for review **ex debito justitiae**. Not only this, the party seeking review has also to show that such additional matter or evidence was not within its knowledge and even after the exercise of due diligence, the same could not be produced before the court earlier.”*

(emphasis added)

29. In the captioned judgment, the term ‘mistake or error apparent’ has been discussed in the following words: (Kamal Sengupta case, (2008) 8 SCC 612, SCC p. 633, para 22)

“22. The term ‘mistake or error apparent’ by its very connotation signifies an error which is evident per se from the record of the case and does not require detailed examination, scrutiny and elucidation either of the facts or the legal position. If an error is not self-evident and detection thereof requires long debate and process of reasoning, it cannot be treated as an error apparent on the face of the record for the purpose of Order 47 Rule 1 CPC or Section 22(3) (f) of the Act. To put it differently an order or decision or judgment cannot be corrected merely because it is erroneous in law or on the ground that a different view could have been taken by the court/tribunal on a point of fact or law. In any case, while exercising the power of review, the court/tribunal concerned cannot sit in appeal over its judgment/decision”.

(emphasis added)

30. In *S. Nagaraj and Others v. State of Karnataka and Another*, 1993 Supp (4) SCC 595, this Court explained as to when a review



jurisdiction could be treated as statutory or inherent and held thus : (SCC p. 618, para 18)

“18. Justice is a virtue which transcends all barriers. Neither the rules of procedure nor technicalities of law can stand in its way. The order of the court should not be prejudicial to anyone. Rule of stare decisis is adhered for consistency but it is not as inflexible in Administrative Law as in Public Law. Even the law bends before justice. Entire concept of writ jurisdiction exercised by the higher courts is founded on equity and fairness. If the court finds that the order was passed under a mistake and it would not have exercised the jurisdiction but for the erroneous assumption which in fact did not exist and its perpetration shall result in miscarriage of justice then it cannot on any principle be precluded from rectifying the error. Mistake is accepted as valid reason to recall an order. Difference lies in the nature of mistake and scope of rectification, depending on if it is of fact or law. But the root from which the power flows is the anxiety to avoid injustice. It is either statutory or inherent. The latter is available where the mistake is of the Court”.

(emphasis added)

31. In *Patel Narshi Thakershi and Others v. Shri Pradyuman Singhji Arjunsinghji*, (1971) 3 SCC 844, this Court held as follows: (SCC p. 847, para 4)

“4..... It is well settled that the power to review is not an inherent power. It must be conferred by law either specifically or by necessary implication. No provision in the Act was brought to notice from which it could be gathered that the Government had power to review its own order. If the Government had no power to review its



own order, it is obvious that its delegate could not have reviewed its order.”

(emphasis added)

32. In *Shri Ram Sahu (Dead) Through LRs and Others v. Vinod Kumar Rawat and Others*, (2021) 13 SCC 1, citing previous decisions and expounding on the scope and ambit of Section 114 read with Order 47 Rule 1, this Court has observed that Section 114 CPC does not lay any conditions precedent for exercising the power of review; and nor does the Section prohibit the Court from exercising its power to review a decision. However, an order can be reviewed by the Court only on the grounds prescribed in Order XLVII Rule 1 CPC. The said power cannot be exercised as an inherent power and nor can appellate power be exercised in the guise of exercising the power of review.

33. As can be seen from the above exposition of law, it has been consistently held by this Court in several judicial pronouncements that the Court's jurisdiction of review, is not the same as that of an appeal. A judgment can be open to review if there is a mistake or an error apparent on the face of the record, but an error that has to be detected by a process of reasoning, cannot be described as an error apparent on the face of the record for the Court to exercise its powers of review under Order 47 Rule 1 CPC. In the guise of exercising powers of review, the Court can correct a mistake but not substitute the view taken earlier merely because there is a possibility of taking two views in a matter. A judgment may also be open to review when any new or important matter of evidence has emerged after passing of the judgment, subject to the condition that such evidence was not within the knowledge of the party seeking review or could not be produced by it when the order was made despite undertaking an exercise of due diligence. There is a clear distinction between an erroneous decision as against an error apparent on the face of the record. An erroneous decision can be corrected



by the Superior Court, however an error apparent on the face of the record can only be corrected by exercising review jurisdiction. Yet another circumstance referred to in Order 47 Rule 1 for reviewing a judgment has been described as “for any other sufficient reason”. The said phrase has been explained to mean “a reason sufficient on grounds, at least analogous to those specified in the rule” (refer: Chajju Ram v. Neki, 1922 SCC OnLine PC 11, and Moran Mar Basselios Catholicos and Anr. v. Most Rev. Mar Poulose Athanasius, (1954) 2 SCC 42).”

14. Even otherwise, the appeal of the petitioner has been dismissed, not on the basis of the fact that the revenue record has not been produced on record. The appeal has been dismissed on the ground that Jalpu has not been proved to be a tenant over the suit land and the claim of inheritance of such right either by Ganeshu, Devu and Barbanda alias Nupi on the one hand and Kamal Dev, Khub Ram and Baldev, on the other, has not been substantiated. It has specifically been held that the possession of Narbada was only permissive.

15. Under the guise of present review petition, a futile attempt has been made by the petitioner to take the grounds, which ought to have been taken in the appeal, to attack the judgment and decree, passed by this Court, in RSA, on 22nd September, 2025.



16. In other words, the present review petition is noting, but, an attempt to reopen the matter. Consequently, the review petition sans merits and the same is accordingly dismissed.

(Virender Singh)
Judge

May 06, 2026
(rajni)