

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Review Petition No. 29/2025

Smt. Bhuri Devi, Since Deceased W/o Late Smt. Radhey Shyam, Seth Ka Madh, Bharatpur, Rajasthan Through Legal Heir Narendra Sharma S/o Late Smt. Radhey Shyam Sharma, Aged About 61 Years, R/o G-775, Gandhi Nagar, Jaipur Presently Residing At Plot No. 11-A, Raj Nagar, Getor, Jagatpura Road, Jaipur

-----Petitioner

Versus

1. Urban Improvement Trust, Bharatpur Through OIC, UIT Bharatpur
2. State Of Rajasthan, Through District Collector, Bharatpur
3. State Bank Of Bikaner And Jaipur, Collectorate Branch Of Branch, Now Changed To State Bank Of India, Collectorate Branch, Bharatpur Through Its Manager

-----Respondents

For Petitioner(s)	:	Mr. Sunil Samdaria Mr. Arihant Samdaria
For Respondent(s)	:	Mr. L.L. Gupta Mr. Tanmay Mathur

HON'BLE MR. JUSTICE ASHOK KUMAR JAIN

Order

16/02/2026

1. The instant review application is preferred by Narendra Sharma seeking review of the order dated 07.03.2025 passed by this Court in S.B. Civil Restoration Application No. 202/2018, whereby the restoration application preferred for restoration of S.B. Civil Miscellaneous Restoration Application No. 1324/2011 in S.B. Civil Second Appeal No. 105/2008 was dismissed, s same having been held to be barred by law of limitation and filed after a delay of 2378 days, and the

application under Section 5 of the Limitation Act for condonation of delay having been dismissed.

2. Learned counsel for the petitioner, while placing reliance upon the grounds and documents submitted along with the present application, has submitted that against the judgment dated 15.12.2007 passed in Civil Regular Appeal No. 171/2003 by the learned Additional District Judge No. 2, Bharatpur, S.B. Civil Second Appeal No. 105/2008 was filed by plaintiff Bhuri Devi and when the said appeal was listed for admission on 28.01.2009, and was dismissed for non-prosecution. He further submitted that petitioner Bhuri Devi filed Restoration Application No. 1324/2011, which was dismissed on 02.08.2011 in wake of pre-emptory order dated 23.04.2011.
3. He further submitted that a restoration application has been filed to restore the restoration application by the legal heir of Bhuri Devi (since deceased) on the ground that Bhuri Devi expired on 07.04.2015 and Narendra Kumar is 100% blind. He further submitted that the restoration application was dismissed by this Court on 07.03.2025 as there was no supporting document to show and justify the reasons of delay.
4. Learned counsel has further placed reliance upon the judgments in the case of **Rafiq vs. Munshilal, AIR 1981 SC 1400; The Commissioner, Mysore Urban Development Authority vs. S.S. Sarvesh, (2019) 5 SCC 144; and Delhi Metro Rail Corporation Limited vs. Delhi Airport Metro Express Pvt. Ltd., 2024 INSC 292,**

and submitted that if any appeal is dismissed for default of appellant's counsel, then the principle is that a party should not suffer on account of the mistake, default or inaction of his counsel. He further submitted that to do substantial justice between the parties, it is necessary to consider the case of the present petitioner and hear the matter on merits.

5. Learned counsel has further submitted that the petitioner is 100% blind and son of illiterate plaintiff Smt. Bhuri Devi. He further referred to the physical disabilities and submitted that to provide access to justice, it is necessary to reconsider the case and the order be reviewed in light of the fact that Bhuri Devi was suffering from cancer and she remained under treatment for the last few years of her life and later expired whereas only legal representation is blind.
6. Aforesaid contentions were opposed by learned counsel appearing on behalf of the respondent. He submitted that a review petition cannot be preferred to review the order passed on merits. He further referred to the judgment in the case of **S. Madhusudhan Reddy vs. V. Narayana Reddy, 2022 SCC OnLine SC 1304**, and submitted that the scope of review is very limited. He further referred to the judgment in the case of **Malleeswari vs. K. Suguna & Another, Civil Appeal No. __/2025 (2025 LiveLaw (SC) 876)**.
7. Heard learned counsel for the parties and perused the material placed on record.
8. The facts of the case are that Bhuri Devi, plaintiff, filed a Civil Suit No. 41/1995 and the same was decreed in favour of plaintiff Bhuri Devi on 27.11.2003 by the learned

Additional Civil Judge (Senior Division) No. 1, Bharatpur. Aggrieved thereof, UIT filed an appeal under Section 96 of CPC and the same was registered and decided as Civil Regular Appeal No. 171/2003 by the learned Additional District Judge No. 2, Bharatpur. The appellate court allowed the appeal of UIT and set aside the judgment and decree dated 27.11.2003.

9. The plaintiff Bhuri Devi filed S.B. Civil Second Appeal No. 105/2008 before this Court and at the stage of admission, the same was dismissed on 28.01.2009 for non-prosecution. Thereafter, Restoration Application No. 1324/2011 was filed and on 23.04.2011 a pre-emptory order was passed and due to non-compliance thereof, the restoration application was dismissed. Thereafter, Restoration Application No. 202/2018 was filed by the legal heir of Bhuri Devi to restore Miscellaneous Restoration Application No. 1324/2011. The office has pointed out a delay of 2378 days and defects were not removed within time and ultimately the matter was listed before this Court on 07.03.2025. This Court dismissed the application under Section 5 of the Limitation Act as there was no sufficient ground to condone the delay of 2378 days and now the present restoration/review application has been filed to restore Restoration Application No. 202/2018.
10. Aforementioned facts clearly indicate that the civil second appeal was dismissed for non-prosecution. Thereafter, Restoration Application No. 1324/2011 was dismissed for non-compliance. Subsequently, Restoration Application No. 202/2018 was dismissed as there was no sufficient reason to

condone the delay and now the present review application has been filed. The office has further pointed out a delay of 100 days in preferring the instant review application, but considering the interest of justice, the delay in preferring the review application is hereby condoned and Miscellaneous Application No. 1627/2025 stands disposed of.

11. In the case of **Rafiq vs. Munshilal (supra)**, the Hon'ble Supreme Court considered dismissal of an appeal on the ground of default committed by learned counsel and observed that a party should not suffer for the misdemeanor or inaction of his counsel. There is no doubt about the aforesaid proposition; however, in the present case, the civil second appeal was dismissed for non-prosecution and thereafter the restoration application was also dismissed for non-action, as defects were not cured within time and it is a case of continuous fault and non-action. Therefore, the said judgment is not applicable upon the facts the instant case.
12. In the case of **The Commissioner, Mysore Urban Development Authority vs. S.S. Sarvesh (supra) and Delhi Metro Rail Corporation Ltd. vs. Delhi Airport Metro Express Pvt. Ltd. (supra)** the principles laid down by the Hon'ble Supreme Court relate to the duty of the Court while deciding matters on merits and doing substantial justice. The issues as mentioned in the aforesaid judgments have already been considered while deciding the earlier application.
13. The review application is governed by the provisions under Section 114 and Order XLVII Rule 1 CPC. A three-Judge

Bench of the Hon'ble Supreme Court in **S. Madhusudhan Reddy vs. V. Narayana Reddy (supra)**, after considering several judgments, laid down that review is maintainable when there is a mistake or error apparent on the face of record, discovery of new and important facts, or for any other sufficient reason. A review is not an appeal in disguise nor a reopening of the matter on merits.

14. In the case of **Malleeswari vs. K. Suguna & Another (supra)**, the Hon'ble Supreme Court again considered review jurisdiction under Order XLVII Rule 1 and Section 114 CPC and reiterated the settled principles.
15. Herein this case, learned counsel for the petitioner has submitted treatment details of Bhuri Devi, who ultimately died on 07.04.2015. Learned counsel has further referred to the blindness of the legal representative of Bhuri Devi and the same has been taken note of; however, these grounds were already considered while deciding the application under Section 5 of the Limitation Act on 07.03.2025. Neither there is discovery of any new fact nor error apparent on the face of record, thus in narrow compass, this petition cannot be allowed on grounds mentioned by the counsel for petitioner.
16. The review application is sans merit and the same is liable to be dismissed.
17. Accordingly, the review application is hereby dismissed.
18. No order as to costs.

(ASHOK KUMAR JAIN),J