

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

MC(Review Petn.) No. 1 of 2022
Ref:- Review Petition No. 6 of 2021
In MC(PIL) No. 16 of 2019
In PIL No. 24 of 2017

1. All Loktak Lake Areas Fishermen's Union (ALLAFUM) represented by its Secretary, Oinam Rajen, aged about 58 years, S/O Oinam Dhama Singh, a resident of Oinam Leikai, Thanga, Bishnupur District, Manipur- 795134.
2. Smt. Oinam Akashini Devi, aged about 54 years, W/O Oinam Tomba Singh, a resident of Thanga Oinam Leikai, Thanga, Bishnupur District, Manipur – 795134 and Executive Member of ALLAFUM.
3. Smt. Khoirom Kiranbala, aged about 47 years, W/O Khoirom Manglemba Singh, a resident of Thanga Chingkha, Thanga, Bishnupur District, Manipur-795134 and Executive Member of ALLAFUM.

.....Petitioners

-Versus-

1. The Hon'ble High Court of Manipur at Imphal through the Registrar General, High Court Complex, Mantripukhri, P.O. Mantripukhri, P.S. Heingang, Imphal East District, Manipur, PIN No. 795002.

2. The State of Manipur through the Chief Secretary, Government of Manipur, Manipur Secretariat, P.O. & P.S. Imphal, Imphal West District, Manipur, PIN No. 795001.
3. The Commissioner/Secretary, Department of Forest & Environment, Government of Manipur, Manipur Secretariat, P.O. & P.S. Imphal, Imphal West District, Manipur, PIN No. 795001.
4. The Director, Loktak Development Authority, New Directorate Building, near 2nd MR Gate, Imphal-Dimapur – 795001.
5. The Union of India through Secretary, Ministry of Environment & Forest, Government of India, Indira Paryavaran Bhawan, Jorbagh Road, New Delhi-110003.
6. The Director, Manipur State Wetlands Authority, Department of Environment & Ecology, Government of Manipur, Porompat, P.O. & P.S. Porompat, Imphal East District, Manipur, PIN-795005.
7. The Director, Department of Tourism, Government of Manipur, near 2nd MR Gate, Imphal-Dimapur Road, Manipur-795001.

.....**Respondents**

MC(Review Petn.) No. 2 of 2022
Ref:- Review Petition No. 6 of 2021
In MC(PIL) No. 16 of 2019
In PIL No. 24 of 2017

1. All Loktak Lake Areas Fishermen's Union (ALLAFUM) represented by its Secretary, Oinam Rajen, aged about 58 years, S/O Oinam Dhama Singh, a resident of Oinam Leikai, Thanga, Bishnupur District, Manipur- 795134.
2. Smt. Oinam Akashini Devi, aged about 54 years, W/O Oinam Tomba Singh, a resident of Thanga Oinam Leikai, Thanga, Bishnupur District, Manipur – 795134 and Executive Member of ALLAFUM.
3. Smt. Khoirom Kiranbala, aged about 47 years, W/O Khoirom Manglemba Singh, a resident of Thanga Chingkha, Thanga, Bishnupur District, Manipur-795134 and Executive Member of ALLAFUM.

.....Petitioners

-Versus-

1. The Hon'ble High Court of Manipur at Imphal through the Registrar General, High Court Complex, Mantripukhri, P.O. Mantripukhri, P.S. Heingang, Imphal East District, Manipur, PIN No. 795002.
2. The State of Manipur through the Chief Secretary, Government of Manipur, Manipur Secretariat,

P.O. & P.S. Imphal, Imphal West District, Manipur,
PIN No. 795001.

3. The Commissioner/Secretary, Department of Forest & Environment, Government of Manipur, Manipur Secretariat, P.O. & P.S. Imphal, Imphal West District, Manipur, PIN No. 795001.
4. The Director, Loktak Development Authority, New Directorate Building, near 2nd MR Gate, Imphal-Dimapur – 795001.
5. The Union of India through Secretary, Ministry of Environment & Forest, Government of India, Indira Paryavaran Bhawan, Jorbagh Road, New Delhi-110003.
6. The Director, Manipur State Wetlands Authority, Department of Environment & Ecology, Government of Manipur, Porompat, P.O. & P.S. Porompat, Imphal East District, Manipur, PIN-795005.
7. The Director, Department of Tourism, Government of Manipur, near 2nd MR Gate, Imphal-Dimapur Road, Manipur-795001.

.....**Respondents**

Review Petn. No. 6 of 2021

*Ref:- MC(PIL) No. 16 of 2019,
PIL No. 24 of 2017*

1. All Loktak Lake Areas Fishermen's Union (ALLAFUM) represented by its Secretary, Oinam

Rajen, aged about 58 years, S/O Oinam Dhama Singh, a resident of Oinam Leikai, Thanga, Bishnupur District, Manipur- 795134.

2. Smt. Oinam Akashini Devi, aged about 54 years, W/O Oinam Tomba Singh, a resident of Thanga Oinam Leikai, Thanga, Bishnupur District, Manipur – 795134 and Executive Member of ALLAFUM.
3. Smt. Khoirom Kiranbala, aged about 47 years, W/O Khoirom Manglemba Singh, a resident of Thanga Chingkha, Thanga, Bishnupur District, Manipur-795134 and Executive Member of ALLAFUM.

.....Petitioners/Applicants

-Versus-

1. The Hon'ble High Court of Manipur at Imphal through the Registrar General, High Court Complex, Mantripukhri, P.O. Mantripukhri, P.S. Heingang, Imphal East District, Manipur, PIN No. 795002.
2. The State of Manipur through the Chief Secretary, Government of Manipur, Manipur Secretariat, P.O. & P.S. Imphal, Imphal West District, Manipur, PIN No. 795001.
3. The Commissioner/Secretary, Department of Forest & Environment, Government of Manipur,

Manipur Secretariat, P.O. & P.S. Imphal, Imphal West District, Manipur, PIN No. 795001.

4. The Director, Loktak Development Authority, New Directorate Building, near 2nd MR Gate, Imphal-Dimapur – 795001.
5. The Union of India through Secretary, Ministry of Environment & Forest, Government of India, Indira Paryavaran Bhawan, Jorbagh Road, New Delhi-110003.
6. The Director, Manipur State Wetlands Authority, Department of Environment & Ecology, Government of Manipur, Porompat, P.O. & P.S. Porompat, Imphal East District, Manipur, PIN-795005.
7. The Director, Department of Tourism, Government of Manipur, near 2nd MR Gate, Imphal-Dimapur Road, Manipur-795001.

.....**Respondents**

BEFORE
HON'BLE THE ACTING CHIEF JUSTICE MR. M.V. MURALIDARAN
HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA

For the Petitioners/applicants	::	Mr. M. Rakesh, Advocate
For the Respondents	::	Mr. M. Devananda, Addl. AG Mr. Kh. Tarunkumar, Sr. Adv. Mr. S. Samarjeet, Sr.PCCG Mr. H. Kenajit, Adv.
Date of Hearing and reserving Judgment & Order	::	17.04.2023
Date of Judgment & Order	::	02.05.2023

JUDGMENT AND ORDER

(CAV)

(M.V. Muralidaran, Acting CJ)

Review Petition No.6 of 2021 has been filed by the petitioners to review the order dated 12.10.2020 passed in MC (PIL) No.16 of 2019 in PIL No.24 of 2017 and modify it to the extent of setting aside the order, thereby staying the NIT for the Loktak Ecotourism Project and the Inland Waterways Project.

2. Pending review petition, the petitioners have filed M.C.No.1 of 2022 under Section 5 of the Limitation Act to condone the delay in filing the review petition and M.C.No.2 of 2022 to admit the Review Petition No.6 of 2021.

3. The review petition and the miscellaneous cases are interlinked with each other. Therefore, the review petition and the miscellaneous cases were heard together and disposed of by this common order.

4. In view of the filing of MC Nos.1 and 2 of 2022 to grant leave and to condone the delay in filing the revision petition, let us consider the miscellaneous cases first.

5. Mr. M. Rakesh, the learned counsel for the petitioners submitted that the petitioners have filed Review

Petition No.6 of 2021 to review the order dated 12.10.2020 passed in MC No.16 of 2019 in PIL No.24 of 2017 and the limitation for filing the review petition would have expired on 11.11.2020. While calculating the limitation period in respect of all judicial or quasi-judicial proceedings, the period between 15.3.2020 till 28.2.2022 remains excluded as per the decision of the Apex Court in the case of *In Re: Cognizance for Extension of Limitation*, 2022 SCC OnLine SC 27. The learned counsel for the petitioners would submit that since the limitation period for filing the review petition expired within 15.3.2020 to 2.10.2021, the extended limitation period is 90 days from 3.10.2021 till 2.1.2022 and the present review petition filed on 30.8.2021 was within the limitation period. Therefore, the delay in filing the review petition may be condoned.

6. The learned counsel for the petitioners further submitted that the interest of the petitioners is affected by the order dated 12.10.2020 passed in MC No.16 of 2019 and pursuant to the aforesaid order if the NIT for the projects on ecotourism and inland waterways are allowed without consultation of the petitioners and other affected communities, the fishing communities, who are dependent on Loktak Lake, will suffer irreparable harm.

7. Arguing further, the learned counsel submitted that the Integrated Management Plan (IMP) for Loktak Lake, based on which the impugned order was passed, was prepared without seeking any input or comment from the local communities and the only consultation that had taken place was in terms of directions of this Court dated 5.2.2018 issued in PIL No.24 of 2017. In fact, the petitioners will have no opportunity to secure their rights unless this Court considers the review petition.

8. The learned counsel for the petitioners would submit that when the petitioners came to know about the IMP, they had begun preparation for impleadment as party in the proceedings in PIL No.24 of 2017 in order to bring the fisherfolks concerns about the IMP and the proposed developmental projects to the notice of this Court. However, on 11.10.2020, the petitioners were shocked to learn that the hearing date was advanced to 12.10.2020 from 24.11.2020 and due to paucity of time and imposition of Covid-19 related lockdown on 11.10.2020, the petitioners have submitted a representation to the Court highlighting the non-consultation of the fisher folks in the villages and the non-impleadment of NHPC as necessary party in PIL No.24 of 2017.

9. The learned counsel for the petitioners urged that the right of third parties to seek review of an order passed by the High Court in exercise of writ jurisdiction under Article 226 of the Constitution of India is permissible and since the rights of the petitioners have been adversely affected by the order dated 12.10.2020, the petitioners sought leave of this Court to file the review petition.

10. The learned counsel next submitted that the petitioners prayed for an opportunity to explain their grievances by way of impleadment as a party in the proceedings before any decision was taken that would directly affect the fundamental rights of the fisher folks and other communities dependent on the Loktak Waterland Region. He would further submit that the order dated 12.10.2020 in MC No.16 of 2019 did not consider that the preparation of the IMP does not amount to preparation of brief documents under Rule 7 of the Guidelines for Implementing Wetlands (Conservation and Management) Rules, 2017 and it is a matter of fact that the brief documents have not been adduced before this Court till date despite the directions to that effect were issued vide orders dated 24.5.2018, 15.1.2020, 19.2.2020 and 4.3.2020.

11. The learned counsel then submitted that while passing the impugned order dated 12.10.2020, this Court relied upon the submission of the learned Solicitor-General of India that the amount sanctioned for the Inland waterways Project by the Ministry of Shipping (IWT Section), Government of India and those sanctioned for the Ecotourism Project by the Asian Development Bank were likely to lapse if the NIT process for the respective projects was not allowed to proceed further. However, the Asian Development Bank has since clarified vide its communication dated 25.2.2021 that the Department of Economic Affairs, Government of India has posed the ecotourism project for Asian Development Bank financing on 24.2.2021 and that the Asian Development Bank will examine the project proposal as per standard procedure.

12. Arguing so, the learned counsel for the petitioners submitted that if the NIT for the projects on ecotourism and inland waterways are allowed to proceed without due consultation with the petitioners and other affected communities, the members of the fishing communities who are dependent on Loktak Lake for sustenance will suffer serious prejudice to their fundamental right to life and livelihood guaranteed under Article 21 of the

Constitution of India. Therefore, the order dated 12.10.2020 passed in MC No.16 of 2019 needs to be reviewed.

13. Per contra, Mr. H. Kenajit, the learned counsel appearing for the respondent Loktak Development Authority submitted that the affidavit in MC No.1 of 2022 filed to condone the delay in filing the review petition is bereft of material particulars and the delay has not been properly calculated and explained by the petitioner with sufficient reasons. Therefore, on this ground MC No.1 of 2022 is liable to be dismissed.

14. The learned counsel contended that the prayer in MC No.2 of 2022 differs from cause-title and the prayer portion. Since the prayer in MC No.2 of 2022 is not clear, on the sole ground the said miscellaneous case is liable to be dismissed.

15. With regard to the review petition, the learned counsel argued that the Project Director of Loktak Development Authority filed MC No.16 of 2019 for allowing to initiate necessary process for executing the project namely “Loktak Inland Waterways Improvement Project” which was approved by the Ministry of Shipping (IWT Section), Government of India and, this Court, after considering the facts and circumstances of the case,

permitted the applicants in MC No.16 of 2019 to proceed with the NIT.

16. The learned counsel further submitted that the review petition is not maintainable as the petitioners were neither parties in MC No.16 of 2019 nor in PIL No.24 of 2017 and the petitioners are no way affected by the order dated 12.10.2020 passed in MC No.16 of 2019. Since the order dated 12.10.2020 passed in MC No.16 of 2019 was implemented and it was done in the larger public interest in order to conserve, preserve and development of wetlands of the State, no review would be maintainable. Thus, a prayer has been made to dismiss the review petition.

17. We have considered the rival submissions and also perused the materials available on record.

18. At the outset, it is to be pointed out that PIL No.24 of 2017 has been taken on file pursuant to the direction of the Hon'ble Apex Court considering the fact that the Loktak Lake is a Ramsar site. In order to ascertain the progress in regard to the preservation of the Loktak Lake, this Court, by the order dated 17.7.2019, issued the following directions:

- (a) No new project or development programme shall be taken up by the concerned authorities including the Departments of the State of Manipur, the Manipur State Wetlands Authority, the Loktak Development Authority etc. and in and around the Loktak Lake without the leave of this Court.
- (b) In respect of the ongoing projects/development programmes, all the stake holders including the Departments of Forest & Environment, Department of Water Resources, the Manipur State Wetlands Authority and the Loktak Development Authority are directed to file affidavits incorporating therein the present status as regards the actions taken so far by them.
- (c) The Manipur State Wetlands Authority and the Loktak Development Authority are directed to file affidavits showing the

details as to how the money has been
and is being utilized by them.

19. Thereafter, the matter was listed from time to time and on 28.9.2020, when the PIL was taken up for hearing, this Court passed the following order:

“In terms of the order dated 27.8.2020 of this Court, the State Government has forwarded the Integrated Management Plan for Wise Use of Loktak Lake, Manipur (2020-2025) to the Joint Secretary, Ministry of Environment, Forest and Climate Change, Govt. of India on 14th September, 2020. A copy of this letter along with the enclosures namely Proceedings of the Manipur State Wetlands Authority has been forwarded to the Ministry concerned of the Union of India also.

Awaiting response, list the matter again on 24.1.2020.”

20. While this Court monitoring the process pending PIL, the Project Director of Loktak Development Authority, Manipur, has filed MC No.16 of 2019 seeking permission of the Court to initiate the process of NIT to implement Loktak Inland Waterways Improvement Project. Similarly, the Commissioner/Secretary of the Department of Tourism,

Government of Manipur has also filed MC No.47 of 2020 to allow the State to proceed with the project in and around the Loktak Lake, Bishnupur District with a condition that all necessary prior permissions and approvals of appropriate authorities be taken by the State before proceeding with the said Loktak Lake Eco-Tourism Project in the interest of justice, fair play and enquiry as well as to avoid multiplicity of proceedings.

21. Both MC No.16 of 2019 and MC No.47 of 2020 were taken up together and by the order dated 12.10.2020, this Court allowed both the miscellaneous cases. The operative portion of the order reads thus:

“[11] Subject to condition that all the necessary statutory clearance will be obtained from all departments concerned, more particularly, from the Ministry of Environment, Forest and Climate Change, Govt. of India, we permit the applicants in both the Misc. Application No.6 of 2019 and No.47 of 2020 to proceed with the NIT. Both the Misc. Applications stand ordered as above.”

22. Now the petitioners, who are stated to be the All Loktak Lakes Areas Fisherman's Union, Manipur and its Executive Members, seek to review the order dated 12.11.2020

passed in MC Nos.16 of 2019 and 47 of 2020 on the grounds of (i) non-submission of brief documents and (ii) non-sanction of funds by the Asian Development Bank, which are discovery of new and important matter or evidence which were not within the knowledge of the petitioners and could not have been produced by them earlier.

23. Before dealing with the grounds on which review of the order dated 12.10.2020 is sought, let us first consider the miscellaneous cases, being M.C. Nos.1 and 2 of 2022, filed by the petitioners to condone the delay in filing the review petition and leave to file the review petition.

24. The order under review was passed on 12.11.2020 and review petition was filed on 30.8.2021 (as stated by the petitioners). It is to be pointed out that the petitioners who are third parties to the proceedings in MC No.16 of 2019 and MC No.47 of 2020 have filed Review Petition No.6 of 2021 without application for condonation of delay and without application to grant leave to file review petition. Only after the office numbered the review petition and the objection having been made by learned counsel for the respondent authorities, the petitioners have filed MC Nos.1 and 2 of 2022. Filing of review petition by third parties to the proceedings without obtaining leave from the

Court is normally not entertained. In this case, as stated supra, it is apparent that the petitioners have not obtained any leave before filing the review petition. Thus, the act of the petitioners is “putting the cart before the horse” and they have done things in wrong order, which cannot be appreciated by this Court.

25. With regard to MC No.1 of 2022 (petition for condonation of delay), the learned counsel for the petitioners, by placing on record the decision of the Hon’ble Apex Court in the case of *In Re: Cognizance for Extension of Limitation*, supra, submitted that though the limitation period for filing the review petition expired on 11.11.2020, the period from 15.3.2020 till 28.2.2022 was excluded for the purpose of limitation and since the review petition was filed on 30.8.2021 within the limitation period as stipulated by the Hon’ble Apex Court, the delay may be condoned.

26. It is apposite to mention that the act of the petitioners in not filing application to condone the delay along with the review petition cannot be appreciated. The direction of the Apex Court excluding the period i.e. from 15.3.2020 till 28.2.2022 is only for the purpose of calculating the period of limitation for new cases and not for the cases like the one before us. The decision of the Hon’ble Apex Court does not speak

about the condonation of the said period of delay after filing cases.

27. When the petitioners come forward to file review petition, they ought to have calculated the number of days delay and stated so in their affidavit filed in support of the petition. However, in the case on hand, the petitioners have failed to state even the number days delay and they simply prayed to condone the delay. Such drafting of affidavit is not appreciable and it is the bounden duty of the petitioners to aver clearly in the affidavit qua the number of days delay to be condoned by the Court with due calculation. Considering the lethargic attitude adopted of the petitioners in not stating the correct number of days delay, we are of the view that the petitioners cannot seek the aid of the decision of the Hon'ble Apex Court in the case of *In Re: Cognizance for Extension of Limitation*, supra. That too, the consideration of application to condone the delay will arise only after granting leave by this Court to the petitioners to file review petition against the order dated 12.11.2020 in MC No.16 of 2019, as the petitioners are third parties to the said proceedings.

28. As rightly argued by the learned counsel for Loktak Development Authority, a contrary prayer has been made by the petitioners in MC No.2 of 2022. In fact, in the cause title, the

petitioners have stated “... *for allowing the petitioners to file the Review Petition No.6 of 2021 ...*”, whereas, in the prayer portion, it has been stated “*allow the instant miscellaneous application and admit the Review Petition No.6 of 2021*”. Thus, the prayer in MC No.2 of 2022 is not so clear.

29. The argument of the learned counsel for the petitioners is that the petitioners are major stakeholders of the Loktak, inasmuch as the livelihood of the rural population around the lake is dependent to a great extent upon the fish of the lake and this fact was reflected in the information on Loktak Lake submitted to the Ramsar Convention by the Government of India and the petitioners are very much affected by the order dated 12.10.2020 passed in M.C.Nos.16 of 2019 and 47 of 2020 and, therefore, they may be granted leave to file review petition to review the said order, cannot be countenanced for the reason that prima facie the petitioners are not affected by the order dated 12.10.2020 passed in MP Nos.16 of 2019 and 47 of 2020. Nothing has been produced by the petitioners to show how they are prejudiced by the order dated 12.10.2020.

30. Considering the fact that the prayer of the petitioners in MC No.2 of 2022 is to grant leave to them to file the review petition, we are of the view that leave cannot be granted

to the petitioners, as the order dated 12.10.2020 in MC No.16 of 2019 and MC No.47 of 2020 was passed in the larger public interest in order to conserve, preserve and development of wetlands of the State. That apart, before filing review petition, the petitioners ought to have sought leave of the Court. However, in the case on hand, the petitioners have failed to do so. Filing petition to grant leave to file review petition after filing and number of the review petition is a bad procedure adopted by the petitioners and, we are of the view that the same cannot be endorsed by this Court.

31. Insofar as the review petition is concerned, the petitioners sought to review the order dated 12.10.2020 in MC Nos.16 of 2019 and 47 of 2020 on the following grounds:

- (i) The consideration of the IMP as brief documents under Rule 7(1) in the impugned order is an error apparent on the face of the record. This Court, vide orders dated 24.5.2018, 15.1.2020, 19.2.2020 and 4.3.2020 in the PIL proceedings, has made it abundantly clear that the requirements of Rule 7 need to be satisfied in order to proceed with developmental works on Loktak Lake, which states as under:

“7. Delegation of powers and functions to the State Governments and Union Territory

Administrations:- (1) The concerned Department of the State Government or Union Territory Administration shall, within a period of one year from the date of publication of these rules, prepare a Brief Document for each of the wetland identified for notification, providing:-

- (a) Demarcation of wetland boundary supported by accurate digital maps with coordinates and validated by ground truthing.
 - (b) Demarcation of its zone of influence and land use and land cover thereof indicated in a digital map;
 - (c) Ecological character description;
 - (d) Account of pre-existing rights and privileges;
 - (e) List of site specific activities to be permitted within the wetland and its zone of influence;
 - (f) List of site specific activities to be regulated within the wetland and its zone of influence;
 - (g) Modalities for enforcement of regulation;
- (2) Based on the Brief Document, the Authority shall make recommendations to the State Government or Union Territory Administration for notifying the wetlands.
- (3) The State Government or Union Territory Administration shall, after considering the objections, if any, from the concerned and affected persons, notify the wetlands in the Official Gazette, within a period not

exceeding 240 days from the date of recommendation by the Authority.”

32. Drawing our attention to Rule 7(1), the learned counsel for the petitioners argued that Rule 7(1) requires preparation of brief documents that lay down the essential characteristics of the wetland including its boundaries and zone of influence, pre-existing rights and privileges and also activities to be prohibited and regulated. Rule 7(2) and (3) envisage the brief documents to be the basis on which a draft notification is issued, which is finalized after public consultation. All the directions issued by this Court for preparation of a wise use plan or brief documents can be traced back to prior directions to comply with Rule 7. However, this Court vide the order dated 12.10.2020 accepted the preparation of the IMP as sufficient compliance with Rule 7, even though the IMP meets none of the requirements under Rule 7(1)(a) to (g) or Rule 7(2) and 7(3) and has been prepared unilaterally by the Loktak Development Authority and Wetlands International South Asia, without any consultation with the public, including the affected communities, in other words, in absolute secrecy and in gross variance to the letter and spirit of the Environment (Protection) Act, 1986, Principle 10 of the Rio Declaration on Environment and

Development, 1992, the Convention on Biological Diversity, 1992 and ILO Convention No.107 concerning the Protection and Integration of Indigenous and Other Tribal and Semi-Tribal Populations in Independent Countries, to which India is a party.

33. The aforesaid submission of the learned counsel for the petitioners cannot be gone into in the review jurisdiction as the petitioners are trying to re-argue the main matter. On a perusal of the order dated 12.10.2020 passed in MC Nos.16 of 2019 and 47 of 2020, we are of the view that upon considering the facts and circumstances of the case and having considering the submissions made by learned counsel appearing on either side, including the learned Solicitor-General of India, this Court permitted the applicants in MC Nos.16 of 2019 and 47 of 2020 to proceed with NIT. The operative portion of the order reads thus:

“[10] Accordingly, on the persuasion of the Court, Integrated Plan for Wise Use of Loktak Lake (2020-2025) has been prepared and submitted to the Ministry of Environment, Forest and Climate Change, Govt. of India on 14.9.2020, a copy of which has been placed before the Court. It is for the Ministry of Environment, Forest and climate Change, Govt. of India to review the Management Plan and give its approval or

suggestions, if any, on its merit. We hope and trust that the Ministry of Environment, Forest and Climate Change, Govt. of India will take all necessary action in this regard and also inform the State if there is any other requirement to be complied with before the Integrated Management Plan of Wise Use of Loktak Lake is approved. Subject to this condition, the reason for permitting the State authorities, namely, Loktak Development Authority and the Tourism department to proceed with the NIT can be considered as reasonable request because they have complied with the basic requirement of providing the Integrated Management Plan of Wise Use of Loktak Lake (2020-2025). This will enable the Union Government and other authorities to assess the nature of the project and guide the two departments of the State Government in a proper manner. On pragmatic assessment of the issue, necessary guidelines for Wise Use of Loktak Lake in relation to Loktak Inland Waterways Improvement Project as well as Eco Tourism project will have to be issued by the various Departments of the Union of India. It is a decision they have to take on the merits of the proposal keeping in mind

the environment and ecology of the Ramsar site.”

34. The aforesaid being the findings of this Court while allowing MC No.16 of 2019 and 47 of 2020, no review will lie at the hands of the petitioners who were not the affected parties. If at all anybody is aggrieved by the said order, they will have to challenge the same in the manner known to law and it appears that nobody has challenged the said order dated 12.10.2020 before the higher Court and allowed the said order to attain finality.

35. At this juncture, it is to be pointed that pursuant to the order, on 5.4.2023 a meeting to discuss the issues related to Integrated Management Plan of Loktak Lake and a project proposal on sustainable tourism was held and in the said meeting all the stakeholders were participated. A copy of the Minutes of Meeting was produced before us. On a perusal of the same, we find that after a detailed deliberation on various issues, the following decisions were taken in the meeting:

- a) LDA shall submit the comments on Appraisal Report (AR) submitted on IMP of Loktak lake by IIT Roorkee along-with its recommendations.

- b) LDA shall submit a revised IMP for consideration of the Ministry under the Centrally Sponsored Scheme (CSS) of NPCA in case they require fund from NPCA. The IMP should take into cognizance the comments made by IIT Roorkee and address these satisfactorily in the proposal. A statement to this effect may be included within the communication accompanying the IMP submission. The MoEF&CC will consider the proposal on priority as per the cost sharing formula between the Central and State government and the funding norms of NPCA.
- c) The Government of Manipur will immediately submit an action plan along with a timeline and a map with clear demarcation of the wetland boundary following guidelines provided by MOEF&CC and as per provisions laid by the Ramsar Secretariat for removal of Loktak Lake from Montreux Record. The RIS of Loktak Lake is to be updated on priority basis by LDA.

- d) MOEF&CC shall take up the issue of Ithai Barrage operation with the Ministry of Power upon receiving all the necessary documentation pertaining to water allocation issues from LDA.
- e) Nature-based tourism actions within the management plan will be converged with Amrit Dharohar. LDA shall propose specific actions to be incorporated within the revised IMP as well as in ADB funded Ecotourism proposal aligned with Amrit Dharohar.
- f) Bathymetric assessment to be conducted for this site by the LDA through agencies such as Chilka Development Authority (CDA), National Institute of Hydrology (NIH) etc. WISA will facilitate the assessment through LDA.”

36. When the aforesaid being the decisions taken in the meeting held on 5.4.2023 qua the issues related to IMP of Loktak Lake in Manipur pursuant to the order dated 12.10.2020 passed in MC Nos.16 of 2019 and 47 of 2020, if any order is passed contrary to the said order and/or if modification is made, the same would affect the said project. The merits of the project cannot be

gone into under the garb of review petition. Taking into account the various facts and circumstances including the ground reality, the authorities have taken decisions highlighted above, which cannot be interfered and/or disturbed by this Court under review jurisdiction. More importantly, the very locus of the petitioners to seek review of the order dated 12.10.2020 in MC Nos.16 of 2019 and 47 of 2020 has not been established. That apart, the non-submission of brief documents and the non-sanction of funds by the Asian Development Bank for the Ecotourism project canvassed by the petitioners as grounds to the discovery of new and important matter or evidence which were not within the knowledge of the petitioners and could not have been produced by them earlier are not the good grounds for reviewing the order dated 12.10.2020 passed in MC Nos.16 of 2019 and 47 of 2020 and only for the purpose of fling review petition, the petitioners have invented the said grounds.

37. In ***State of West Bengal and Others v. Kamal Sengupta and another, (2008) 8 SCC 612***, the Hon'ble Apex 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. In paragraph 21, the Hon'ble Apex Court held thus:

“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 debitojustitiae. 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.”

38. As could be seen from the materials available on record, the petitioners herein are watching the proceedings from the beginning and having kept silent for all these years, now they cannot try to stall the project. Moreover, under the larger public interest, when the NIT for the projects on ecotourism and inland waterways are allowed to proceed further with consultation of the stakeholders, the petitioners under the garb of review cannot stall the said project and no fundamental right to life and livelihood guaranteed under Article 21 of the Constitution of India was affected by the issuance of NIT. Only after considering the ground reality and in accordance with law, this Court permitted

the applicants in MC Nos.16 of 2019 and 47 of 2020 to proceed with the NIT. Therefore, we find no error in the order dated 12.10.2020 in MC Nos.16 of 2019 and 47 of 2020.

39. Under Order 47, Rule 1 CPC, a judgment may be open to review, *inter alia*, if there is 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.

40. Time and again, the Hon'ble Apex Court held that review is not appeal in disguise. It follows, therefore, that the power of review can be exercised for correction of a mistake but not to substitute a view. Such powers can be exercised within the limits of the statute dealing with the exercise of power. The review cannot be treated like an appeal in disguise.

41. In ***MeeraBhanja v. NirmalaKumari Choudhury, (1995) 1 SCC 170***, the Apex Court held thus:

“8. It is well settled that 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, while dealing with similar jurisdiction available to the High Court while seeking to review the orders under Article 226 of the Constitution, this Court in Aribam Tuleshwar Sharma v. Aribam Pishak Sharma, (1979) 4 SCC 389 speaking through Chinnappa Reddy, J. has made the following pertinent observations:

“It is true there is nothing in Article 226 of the Constitution to preclude the 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.”

42. In the case of ***Lily Thomas v. Union of India, (2000) 6 SCC 224***, the Hon'ble Apex Court observed and held that the power of review can be exercised for correction of a mistake but not to substitute a view. Such powers can be exercised within the limits of the statute dealing with the exercise of power.

43. In the case of ***Col. Avatar Singh Sekhon v. Union of India and Others, 1980 Supp SCC 562***, the Hon'ble Apex Court observed that a review of an earlier order cannot be done unless the Court is satisfied that the material error which is manifest on the face of the order, would result in miscarriage of justice or undermine its soundness. In paragraph 12, the Apex Court held thus:

“12. A review is not a routine procedure. Here we resolved to hear Shri Kapil at length to remove any feeling that the party has been hurt without being heard. But we cannot review our earlier order unless satisfied that material error, manifest on the face of the order, undermines its soundness or results in miscarriage of justice. In Sow Chandra Kante and Another v. Sheikh Habib, (1975) 1 SCC 674, this Court observed :

‘A review of a judgment is a serious step and reluctant resort to it is proper only where a glaring omission or patent mistake or like grave error has crept in earlier by judicial fallibility. ... The present stage is not a virgin ground but review of an earlier order which has the normal feature of finality.’ ”

44. In ***Parsion Devi and others v. Sumitri Devi and others, (1997) 8 SCC 715***, stating that an error that is not self-evident and the one that has to be detected by the process of reasoning, cannot be described as an error apparent on the face of the record for the Court to exercise the powers of review, the Hon’ble Apex Court held 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.
1964 SCR (5) 174 this Court opined:

'11. 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 it 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 characterized 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.'

8. Again, in *MeeraBhanja v. NirmalaKumari Choudhury*(1995) 1 SCC 170 while quoting with approval a passage from *AribamTuleshwar Sharma v. AribamPishak Sharma*¹⁵ 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 this 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'".

45. It is also settled law that in exercise of review jurisdiction, the Court cannot re-appreciate 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**, the Hon'ble Apex Court observed as follows:

"10. In a review petition it is not open to this Court to re-appreciate 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."

46. Thus, an application for review would lie if the order has been passed on account of some mistake. As stated supra, we find no mistake in the order dated 12.10.2020 passed in MC Nos.16 of 2019 and 47 of 2020. Therefore, under the aid of review, now the petitioners cannot sought to the review the order dated 12.10.2020, as power of review can be exercised for correction of a mistake, but not to substitute a view.

47. What can be said to be an error apparent on the face of the proceedings has been dealt with and considered by the Hon'ble Apex Court in number of decisions. An error is an error which is a patent error and not a mere wrong decision. 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 on a point of fact or law. In any case, while exercising the power of review, the Court concerned cannot sit an appeal over its judgment.

48. We are, therefore, of the view that no ground as envisaged under Order 47, Rule 1 CPC has been made out for the purpose of reviewing the order dated 12.10.2020 in MC Nos.16 of 2019 and 47 of 2020. Further, in view of the scope as discussed above, if the submissions of the learned counsel for the petitioners are tested in the light of the materials available on record including from the perusal of the order dated 12.10.2020 passed in MC Nos.16 of 2019 and 47 of 2020, it would indicate that while deciding the matter, all aspects of the matter has been duly considered by the Court and findings have been given.

49. The grounds and the decisions relied upon by the learned counsel for the petitioners do not relate to the scope of review. The order under review has been passed by the Court

considering the facts, law and the arguments made and also materials available on record. Therefore, there is no error apparent on the face of record could be pointed out by the learned counsel for the petitioners to exercise the review jurisdiction.

50. As stated supra, 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:

“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."

51. After discussing a series of decisions on review jurisdiction in ***Kamlesh Verma v. Mayawati and others, (2013) 8 SCC 320***, the Hon'ble Apex 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 said case as under:

“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, AIR 1922 PC 112 and approved by this Court in Moran Mar Basselios Catholicos vs. Most Rev. Mar Poulouse Athanasius & Ors., 1955 SCR 520 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 ought at the time of arguing the main matter had been negated.”

52. As can be seen from the above exposition of law, it has been consistently held by Hon’ble Apex 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 XLVII 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 XLVII Rule 1 CPC 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”.

53. The petitioners herein are trying to seek a re-hearing of the main case which is not within the scope of review. As stated supra, the learned counsel for the petitioners could not point out any error apparent on the face of the record and the submissions made do not fall within the parameters of Section 114 read with Order 47, Rule 1 CPC. Given the above facts and circumstances, we are of the firm view that the instant review petition was nothing short of an abuse of the process of the Court and ought to have been rejected as not maintainable. Having considered the matter, we find that no grounds of review is made out. The revision petition is absolutely devoid of merits.

54. For all the reasons stated above, MC (Rev.Petn.) Nos.1 and 2 of 2022 and Review Petition No.6 of 2021 are dismissed. There will be no order as to costs.

JUDGE

ACTING CHIEF JUSTICE

FR/NFR

Sushil