

HIGH COURT OF TRIPURA
_A_G_A_R_T_A_L_A_
Review Pet. No.27 of 2024

The State of Tripura and Others

.....Petitioners

_V_E_R_S_U_S_

Mr. Debashish Datta Roy and Another

.....Respondents

For Petitioner(s)	:	Mr. S. M. Chakraborty, Advocate General. Mr. M. Debbarma, Addl. G.A. Mr. N. Majumder, Advocate.
For Respondent(s)	:	Mr. S. Roy, Advocate.

HON'BLE MR. JUSTICE T. AMARNATH GOUD
_F_I_N_A_L_O_R_D_E_R_

17.01.2025

Heard Mr. S. M. Chakraborty, learned A.G. assisted by Mr. M. Debbarma, learned Addl. G.A. appearing for the petitioners also heard Mr. N. Majumder, learned counsel appearing for the respondents.

[2] The interlocutory application filed in the present review petition under Chapter-VIII-P Rule-2 of the High Court of Tripura Rules, 2023 for modifying the order dated 07.11.2024 passed in I.A. No.01 of 2024 in Review Pet. No.27 of 2024 to delete the costs of Rs.20,000/- imposed by this Court upon the deponent, petitioner herein. And the present review petition has been filed under Article-226 of the Constitution of India read with Section-114 and order-47 Rule-1 of CPC for reviewing the judgment and order dated 09.02.2024. Initially, when the case was listed on 16.01.2025, learned counsel for both the parties was heard.

[3] Mr. M. Debbarma, learned Addl. G.A. contended only on the point that imposing of Rs.20,000/- cost upon the officer for the reasons indicated in the order may be reviewed and relaxed and for this reason, the present review petition is filed. Mr. N. Majumder, learned counsel appearing for the respondents has contended that it is not a case for review since the requirements under the review jurisdiction contemplated under the CPC do not satisfy for reviewing the order and prayed to dismiss the petition.

[4] In reply, learned Addl. G.A. has drawn attention of this Court to para-3 of the pleadings in review wherein, it has categorically stated that the contents in the counter affidavit were drawn in terms of the remarks of administrative department and law department and AG's office. At this juncture, the Court has

sought assistance of the learned Advocate General. The learned A.G. was present in Court and for obtaining further instructions in this matter and to represent, sought for an accommodation and subsequently, request was considered and the matter was listed today.

[5] Today, when the case is called both the parties were present. Learned AG has submitted before this Court that there are no grounds to be considered on the point of review strictly in terms of the CPC but however, request is only made to consider on humanitarian grounds.

[6] This Court has given the cogent reason in the order dated 07.11.2024 and feels that a strong message needs to go to the respondents not to place any affidavit or any other information before the High Court or any Court of law in a casual manner without application of mind. The attitude of the respondent, the petitioner herein, in not clarifying regarding para-3 and giving a vague and ambiguous reply to review the order, cannot be accepted. Unless the requirements under the review are specified, the question of reviewing the order does not arise. The requirements under CPC may be extracted herein below for ready reference:

“114-Review: Subject as aforesaid, any person considering himself aggrieved-

(a) By a decree or other 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 by the decree or made the order, and the Court may make such order thereon as it thinks fit.”

[7] The requirements as contemplated in Tripura High Court Review provision in Chapter-VIII Rule-2 may be extracted for ready reference:

“2. Discovery of New Important Matter In Review Application: Every application for review made upon the ground of the discovery of new and important matter or evidence within the meaning of Order XLVII Rule 1 of CPC shall be accompanied by an affidavit of the applicant together with the documents, if any, relied upon, and stating in clear terms, what such new and important matter or evidence is, the effect or purport thereof and that the same, after the exercise of new diligence was not within the knowledge of the applicant or could not be produced at the time when the decree/order was passed.”

[8] Mere erroneous decision is distinguished from decision which could be characterized as vitiated by error apparent. Review of an order permissible if

any grounds mentioned under Order-41 Rule-1 made out. There is distinction; it might not always be capable of exposition, between mere erroneous decision and decision which could be characterized as vitiated by error apparent. Review is not appeal in disguise where erroneous decision reheard and corrected by lies for patent error. Error which is not self-evident and has to be detected by process of reasoning can hardly be called as error apparent on face of record. The petitioner herein has not made out a case for reconsidering except making request for reducing the amount and that cannot be a ground for reviewing the order.

[9] Being a responsible officer, it is his *prima facie* duty before signing the same needs to verify the veracity and the correctness of the contents. His casual approach towards filing such counter could have deprived the legitimate right of the writ petitioner. Since, the wrong facts were stated in para-16 and 17 of the counter affidavit filed by the deponent/review petitioner; this Court finds that such casual approach needs to be shutdown and more diligent approach is required.

[10] In view of the above, the present stands dismissed. It is needless to observe that mercy can only be extended to the poor litigants but not to the power officers under the state machineries.

T. AMARNATH GOUD, J