



Serial No.01
Daily List

HIGH COURT OF MEGHALAYA
AT SHILLONG

Review Pet.No.12/2025

Date of Judgment: 10.10.2025

Shri Wallamphang Roy

..... Petitioner

Vs.

1. Special Bureau, Government of India represented by the Commissioner, NE Zone, Springside, Jingkieng, Shillong.

2. The Collector, East Khasi Hills District, Shillong Respondents

Coram:

Hon'ble Mr. Soumen Sen, Chief Justice

Appearance:

For the Petitioner : Mr. D.K. Mishra, Sr.Adv with
Mr. J. Shylla, Adv

For the Respondents : Dr. N. Mozika, DSGI with
Ms. K. Gurung, Adv

i)	Whether approved for reporting in Law journals etc.:	Yes/No
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ii)	Whether approved for publication in press:	Yes/No
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JUDGMENT: (Oral)

This review application has been filed by the claimant/award holder.

2. Mr. D.K. Mishra, learned senior counsel for the petitioner has submitted that in affirming the judgment passed by the Reference Court, the learned Single Judge has overlooked Section 28 of the Land Acquisition Act, 1894 (for short the LA Act, 1894) which has clearly



stipulated the rate of interest to be paid at different stages of the proceeding. It is submitted that while the Reference Court has followed the statutory mandate of Section 28 read with Section 34 of the LA Act, 1894, the learned Single Judge has reduced the rate of interest without taking into consideration of the aforesaid provisions of law. It is also submitted that several decisions of the Supreme Court had mandated that in disposing of a reference and in deciding the amount of compensation to be payable, the courts cannot depart the statutory mandate of Section 28 read with Section 34 of the LA Act, 1894. Any decision rendered in ignorance or contrary to the statutory mandate and the decisions of the Supreme Court would be an error of law apparent on the face of record and in such a situation, the review court has the power to correct any mistake on the part of the court as it would be considered to be a sufficient reason to review the order. The power of court is wide enough to include a misconception of fact or law by a court and in the instant case since there is a clear departure from the settled principles of law laid down by the several decisions of the Supreme Court and the order was passed in ignorance of Sections 28 and 34 of the LA Act, 1894, the order is required to be reviewed in so



far as it denied interest in accordance with the provisions of the LA Act, 1894.

3. Learned senior counsel has submitted that the decisions of the Supreme Court in *K.G. Derasari & anr v. Union of India & ors*¹ and *Manipur Tea Co. Pvt. Ltd. v. Collector of Hailakandi*² have reiterated the principle that the entitlement of the claimant to the interest on the excess compensation at the rate of 9% per annum from the date on which the authority took possession of the land to the date of payment of such excess into the Court and in addition thereto if such amount is not deposited within one year from the date on which possession was taken the interest at the rate of 15% per annum on such excess from the date of expiry of one year is a statutory mandate and any decision rendered in ignorance of the previous decisions of the Supreme Court could be a ground to file an application for review.

4. Dr. N. Mozika, learned Deputy Solicitor General has submitted that the review application would not be maintainable in view of the fact that there is no error apparent on the face of the record and the learned Single Judge who happens to be the former Chief Justice of this

¹ (2001) 10 SCC 496

² (1997) 9 SCC 673



Court has dealt with the matter on merits while modifying the order passed by the Reference Court.

5. The power of review is circumscribed by order 47 Rule 1 CPC. Review jurisdiction is distinct from appellate jurisdiction. The review proceedings are not meant for rehearing of appeal. The power of review can be exercised, inter alia, where some mistake or error is appellant on the face of the record. It may also be exercised on any analogous ground, but under no circumstances on the ground that the decision was erroneous on merits, that would fall within the exclusive domain of a court of appeal.

6. It is also well-settled that mistake or error apparent on the face of the record has to be self-evident and does not require a process of reasoning and the same is clearly distinct from erroneous decision as has been held in *Parsion Devi & Ors. vs. Sumitri Devi & Ors* ³. In the said decision, the Hon'ble Supreme Court was considering the phrase "mistake or error apparent on the face of record". It was held, 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

³ 1997(8) SCC 715



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". There is a clear distinction between an erroneous decision and an error apparent on the face of the record. While the first can be corrected by the higher forum, the latter can only be corrected by exercise of the review jurisdiction. A review petition has a limited purpose and cannot be allowed to be "an appeal in disguise". [See. Paragraphs 19 and 20 in *Barun Kumar Das v. State of West Bengal* ⁴].

7. In *Hari Sankar Pal v. Anath Nath Mitter* ⁵, considering a five Judge Bench of the Federal Court while question whether the Calcutta High Court was justified in not granting relief to nonappealing party, similar to that of the successful whose position was appellant, held: (FCR p.48) "That a decision is erroneous in law is certainly no ground for ordering review. If the court has decided a point and decided it erroneously, the error could not be one apparent on the face of the record or even analogous to it. When, however, the court disposes of a case without advertng to or applying its mind to a provision of law which gives it jurisdiction to act in a particular way, that may amount to

⁴2012(2) CHN 617

⁵ 1949 FCR 36: AIR 1949 FC 106



an error analogous to one apparent on the face of the record sufficient to bring the case within the purview of Order 47 Rule 1, Civil Procedure Code.

8. The power of review, it is trite to say, should not be confused with appellate power. An Appellate Court is competent to correct errors committed by the Court subordinate thereto. In this regard, we can rely upon the judgement of Hon'ble Supreme Court pronounced in the case of ***Thungabhadra Industries Ltd. vs. The Government of Andhra Pradesh***⁶ wherein Hon'ble Supreme Court held:-

“A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected, but lies only for patent error. We do not consider that this furnishes a suitable occasion for dealing with this difference exhaustively or in any great detail, but it would suffice for us to say that where without any elaborate argument one could point to the error and say here is a substantial point of law which stares one in the face, and there could reasonably be no two opinions entertained about it, a clear case of error apparent on the face of the record would be made out.” (emphasis supplied)

9. In this regard I can profitably relied upon the judgement of Hon'ble Apex Court in ***State of West Bengal and Others Vs. Kamal***

⁶ AIR 1964 SC 1372



Sengupta & Another⁷ to understand what can be said to be mistake or error apparent on the face of record.

10. *In State of West Bengal and Others* (supra) the Hon'ble Apex Court held:-

“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 selfevident 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.”

23. xxxxxx

24. xxxxxx

25. *In Hari Sankar Pal v. Anath Nath Mitter, 1949 FCR 36 a five Judge Bench of the Federal Court while considering the question whether the Calcutta High Court was justified in not granting relief to nonappealing party, whose position was similar to that of the successful appellant, held: (FCR p.48)*

“That a decision is erroneous in law is certainly no ground for ordering review. If the court has decided a point and decided it erroneously, the error could not be one apparent on the face of the record or even analogous to it. When, however, the court disposes of a case without advertng to or applying its mind to a provision of law

⁷ (2008) 8 SCC 612



which gives it jurisdiction to act in a particular way, that may amount to an error analogous to one apparent on the face of the record sufficient to bring the case within the purview of Order 47 Rule 1, Civil Procedure Code.” (emphasis supplied)

11. In ***Shri Ram Sahu (Dead) through LRS vs. Vinod Kumar Rawat & Ors***⁸ power of a review court is stated in following words:

“7. The dictionary meaning of the word “review” is “the act of looking, offer something again with a view to correction or improvement”. It cannot be denied that the review is the creation of a statute. In the case of Patel Narshi Thakershi vs. Pradyumansinghji Arjunsinghji, (1971) 3 SCC 844, this Court has held that the power of review is not an inherent power. It must be conferred by law either specifically or by necessary implication. The review is also not an appeal in disguise.

8. What can be said to be an error apparent on the face of the proceedings has been dealt with and considered by this Court in the case of T.C. Basappa vs. T.Nagappa, AIR 1954 SC 440. It is held that such an error is an error which is a patent error and not a mere wrong decision. In the case of Hari Vishnu Kamath vs. Ahmad Ishaque, AIR 1955 SC 233, it is observed as under:

“It is essential that it should be something more than a mere error; it must be one which must be manifest on the face of the record. The real difficulty with reference to this matter, however, is not so much in the statement of the principle as in its application to the facts of a particular case. When does an error cease to be mere error, and become an error apparent on the face of the record? Learned counsel on either side were unable to suggest any clearcut rule by which the

⁸ (2020) 11 SCR 865



boundary between the two classes of errors could be demarcated.”

8.1 In the case of Parsion Devi vs. Sumitri Devi, (*Supra*) in paragraph 7 to 9 it is observed and 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., 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 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 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.”

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 (*supra*) 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 selfevident 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”. (emphasis supplied)

12. In a fairly recent decision in ***S. Murali Sundaram vs. Jothibai Kannan & Ors.***,⁹ the Hon’ble Supreme Court has discussed the scope and ambit of Order 47 Rule 1, Code of Civil Procedure in paragraphs 15 to 17. On a review of its earlier decisions, it was held:

15. While considering the aforesaid issue two decisions of this Court on Order 47 Rule 1 read with Section 114 CPC are required to be referred to? In the case of Perry Kansagra (supra) this Court has observed that while exercising the review jurisdiction in an application under Order 47 Rule 1 read with Section 114 CPC, the Review Court does not sit in appeal over its own order. It is observed that a rehearing of the matter is impermissible in law. It is further observed that review is not appeal in disguise. It is observed that 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. It is further observed that it is wholly unjustified and exhibits a tendency to rewrite a judgment by which the controversy has been finally decided. After considering catena of decisions on

⁹ 2023 SCC Online SC 185



exercise of review powers and principles relating to exercise of review jurisdiction under Order 47 Rule 1 CPC this Court had summed upon as under:

“(i) Review proceedings are not by way of appeal and have to be strictly confined to the scope and ambit of Order 47 Rule 1 CPC.

(ii) Power of review may be exercised when some mistake or error apparent on the fact of record is found. But error on the face of record must be such an error which must strike one on mere looking at the record and would not require any long-drawn process of reasoning on the points where there may conceivably be two opinions.

(iii) Power of review may not be exercised on the ground that the decision was erroneous on merits.

(iv) Power of review can also be exercised for any sufficient reason which is wide enough to include a misconception of fact or law by a court or even an advocate.

(v) An application for review may be necessitated by way of invoking the doctrine actus curiae neminem gravabit.”

16. It is further observed in the said decision that an error which is required to be detected by a process of reasoning can hardly be said to be an error on the face of the record.

17. In the case of Shanti Conductors (P) Ltd. (supra), it is observed and held that scope of review under Order 47 Rule 1 CPC read with Section 114 CPC is limited and under the guise of review, the petitioner cannot be permitted to reagitate and reargue questions which have already been addressed and decided. It is further observed that 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 record justifying the court to exercise its power of review under Order 47 Rule 1 CPC.” (emphasis supplied)



13. It appears from the order of review that the Hon'ble Chief Justice since retired has taken a conscious decision with regard to the modification of the interest as would be evident from the following observation:

"I find the impugned judgment and order dated 20th February, 2024 to be a proper exercise of discretion and otherwise sound. There is no scope of any interference save and except that considering the long period of interest payment and involvement of government revenue, the rate of interest at (iv) under the heading calculation at page 45 to 46 of the said judgment shall be at the uniform rate of six per cent simple interest per annum."

14. It cannot be said that His Lordship was unaware of Section 28 or 34 of the LA Act, 1894 in affirming the order of the learned Reference Court. Arguments have been advanced with regard to the enhancement of compensation amount and while allowing some enhancement in the compensation amount, the aforesaid observation was made by the Court in modifying the award. The reason for modification in the rate of interest is clearly articulated in the aforesaid paragraph.

15. However, learned Deputy Solicitor General submitted that the Union cannot be saddled with the responsibility of paying the compensation as originally determined by the Reference Court and wanted to rely upon the decisions of the Allahabad High Court in this



regard. However, it is not necessary as the threshold test in the instant case could not be fulfilled by the petitioner.

16. Rehearing of the appeal on merits under the garb of review is not permissible in law. In view of the fact that the said decision appears to be a conscious decision on consideration of the whole facts, I am not inclined to exercise the review jurisdiction.

17. The application for review stands dismissed.

18. However, there shall be no order as to costs.

(Soumen Sen)
Chief Justice

Meghalaya
10.10.2025
"*Lam* DR-PS"