

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

RP No. 10/2025

1. Amar Bishnah Cooperative Medical Store,
Bishnah through its Secretary
Sham Lal Sadotra
S/O Lt. Sh. Rattan Chand Sadotra
R/O Bishnah, District Jammu.
2. Sham Lal Sadotra
S/O Lt. Sh. Rattan Chand Sadotra
R/O Ward No. 12, Tehsil Bishnah, District
Jammu.

....Petitioner(s)

Through: Mr. Irfan Khan, Advocate

Vs

1. UT of Jammu and Kashmir through
Commissioner/Secretary
Health and Medical Education Department
Srinagar/Jammu.
2. Director Health Services, Jammu.
3. Chief Medical Officer, Jammu.
4. Block Medical Officer, Bishnah.
5. Surinder Sharma
S/O Lt. Sh. Behari Lal Sharma
R/O Village Patti, Tehsil & District Jammu.
6. Bishnah Medical Cooperative Consumer Store Limited Bishnah.

..... Respondent(s)

Through: Mr. Raman Sharma, AAG.

**CORAM: HON'BLE THE ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE M A CHOWDHARY, JUDGE**

ORDER
15.04.2025

- 01.** This is a petition seeking review of the judgment dated 03.04.2025 passed by this court in LPA No. 58/2025.

Briefly stated the material facts are as under:-

- 02.** The petitioners being aggrieved of the judgment dated 29.01.2025 passed in OWP No. 1647/2015 whereby the writ petition filed by the contesting respondent No. 5 was allowed by the learned Single Judge by directing discontinuance of use and occupation of the shops in reference in the Sub District Hospital, Bishnah by the petitioners and proforma respondent, challenged the same by filing LPA No. 58/2025; that this Court upon consideration of the matter dismissed the said LPA vide judgment dated 03.04.2025, upholding the judgment dated 29.01.2025 passed in OWP No. 1647/2015.

- 03.** Through the medium of the present review petition, the petitioners seek review of the judgment dated 03.04.2025 on the grounds that the impugned judgment is required to be reviewed as the same is contrary to the order dated 24.02.2025 which was passed in an appeal challenging the same judgment which was challenged by the petitioners herein, as such in order to maintain parity it is essential that similar treatment is given to the petitioners being similarly situated persons; that the judgment is required to

be reviewed as ground of discovery of new and important matter or evidence is permissible under Order XLVII of Rule 1 of CPC.

- 04.** Learned counsel for the review petitioners argued that the order impugned before this Court in LPA No. 58/2025 decided by the Division Bench on 03.04.2025 was essentially based on a judgment of Kathua Cooperative Society against which LPAs were filed, however, the LPAs were later withdrawn with liberty file review petitions, as such, the judgment, which was impugned in the LPA before this Court and which came to be decided, should not have been decided in the manner it was decided as the parties should have been relegated to exercise the option of review as was done in the case which was based to pass the impugned order which was assailed before this Bench.
- 05.** The scope of powers exercisable by a Court in its review jurisdiction is no long res integra.
- 06.** In **Thungabhadra Industries Ltd. Vs. Govt. of A.P** reported as AIR 1964 SC 1372, the Apex court held as under:

“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."

07. The above position of law was reiterated in the case reported as **Parsion Devi and Ors Vs. Sumitri Devi & Ors** reported as (1997) 8 SCC 715, by holding as under:

"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 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 limited purpose and cannot be allowed to be "an appeal in disguise."

08. In **Board of Control for Cricket, India & Anr Vs. Netaji Cricket Club & Ors**, reported as AIR 2005 SC 592, the Apex court in paragraphs 89 and 90 held as under:

"89. Order 47, Rule 1 of the Code provides for filing an application for review. Such an application for review would be maintainable not only upon discovery of a new and important piece of evidence or when there exists an error apparent on the face of the record but also if the same is necessitated on account of some mistake or for any other sufficient reason.

90. Thus, a mistake on the part of the court which would include a mistake in the nature of the undertaking may also

call for a review of the order. An application for review would also be maintainable if there exists sufficient reason therefor. What would constitute sufficient reason would depend on the facts and circumstances of the case. The words 'sufficient reason' in Order 47, Rule 1 of the Code is wide enough to include a misconception of fact or law by a court or even an Advocate. An application for review may be necessitated by way of invoking the doctrine "actus curiae neminem gravabit".

09. In **Kamlesh Verma V. Mayawati and others**, reported as (2013) 8 SCC 320, while dealing with the issue, the Apex Court detailed the grounds on which a review is maintainable and otherwise. In paragraphs 19 and 20 of the judgment, it was held as under:-

"19. 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. In review jurisdiction, mere disagreement with the view of the judgment cannot be the ground for invoking the same. As long as the point is already dealt with and answered, the parties are not entitled to challenge the impugned judgment in the guise that an alternative view is possible under the review jurisdiction. Summary of the principles

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" have been interpreted in *Chhajju Ram v. Neki* and approved by this Court in *Moran Mar Basselios Catholicos v. Most Rev. Mar Poulose Athanasius* 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.*

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 reheard 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, if 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 negated."**

- 10.** Again in **N. Anantha Reddy Vs. Anshu Kathuria & Ors**, reported as (2013) 15 SCC 534, the Apex Court held as under:

"A careful look at the impugned order would show that the High Court had a fresh look at the question whether the appellant could be impleaded in the suit filed by the respondent No.1 and, in the light of the view which it took, it recalled its earlier order dated 08.06.2011. The course followed by the High Court is clearly flawed. The High Court exceeded its review jurisdiction by reconsidering the merits of the order dated 08.06.2011. The review jurisdiction is extremely limited and unless there is mistake apparent on the face of the record, the order/judgment does not call for review. The mistake apparent on record means that the mistake is self evident, needs no search and stares at its

face. Surely, review jurisdiction is not an appeal in disguise. The review does not permit rehearing of the matter on merits.”

- 11.** The contention of the learned counsel for the review petitioners that this Court should not have passed the order which the review petitioners have been seeking to be reviewed does not carry any force inasmuch as no such contention was raised by the petitioners at the time of consideration of the LPA by this Court. More so, the judgment passed by this Court, sought to be reviewed, had been passed on its own merits after analyzing the impugned judgment before it passed by the learned Single Judge having regard to the Govt. Order holding the field with regard to allotment of such shops in the Government hospitals. Such premises as already noted by this court in its judgment had to be allotted to the deserving people through auction in terms of the Government Order issued in the year 2008 and those who have already been holding the property before issuance of Govt. Order could have sought to retain the property for a period of next two years meaning thereby upto the year 2010, subject to certain conditions. The review petitioners' case on the other hand is that the property was given to them in the year 1997 and they retained the same even after issuance of the Government order of 2008 and are holding the possession thereof till now, to which they are not entitled to, without

complying with the provisions of the Government order issued in this respect.

- 12.** Having regard to the aforesaid discussion and the law relied upon, we are of the considered view that no good ground has been made out to seek review of the matter, as a result the review petition being devoid of any merit and substance, is accordingly dismissed.

JAMMU
15.04.2025
NARESH/SECY

(M A CHOWDHARY)
JUDGE

(SANJEEV KUMAR)
CHIEF JUSTICE(A)

