

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

RP No.39/2025

**M/s Allied Builders & Engineers Pvt.
Ltd. Akson Building, Residency Road,
Srinagar through its Directors:**

.....Appellant(s)/Petitioner(s)

- 1. Mohammad Saleem Thakur,
S/o Abdul Kareem Thakur**
- 2. Parvaiz Ahmad Thakur, s/o
Mohammad Saleem Thakur**
- 3. Sameer Ahmad Thakur, S/o
Mohammad Saleem Thakur**
- 4. Waseem Sikander Thakur, S/o
Mohammad Saleem Thakur
All residents of Lasjan-A,
Srinagar**

Through: Mr. A. Hanan. Advocate

Vs

..... Respondent(s)

- 1. Jammu & Kashmir Bank
Limited, through its Managing
Director & CEO, Corporate
Headquarters, M.A.Road
Srinagar.**
- 2. Zonal Headquarter, Kashmir
Central, the Jammu & Kashmir
Bank, M.A.Road, Srinagar.**
- 3. Branch Manager, Jammu &
Kashmir Bank, B/o Poloview,
Srinagar.**
- 4. Tehsildar, Pantha Chowk,
Srinagar**

Through:

**Coram: HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE
HON'BLE MR. JUSTICE MOHAMMAD YOUSUF WANI, JUDGE**

JUDGEMENT (Oral)

- 1. The petitioners, by medium of the instant review petition, are seeking
review of order dated 10.12.2024 passed in CM Nos. 7219/2024 &**

7792/2024 in WP(C) No.1260/2024 by virtue of which the aforesaid petition was disposed of, the operative portion of which is reproduced as under:

“under the circumstances, this petition is disposed of giving the liberty to the respondent-bank to start the process for the auction and as stated by the Ld Counsel for the respondent-bank, the sale notice would provide a 30 days window to the petitioner to produce the buyer or pay an amount of Rs 4,72,000,00/ to the respondent bank.

With the above, the applications bearing Cm No’s 7219/2024 and 7792/2024 stands disposed of with liberty given to both the parties as herein above”

2. Before deciding the instant Review Petition, it would be apt to give a brief factual matrix of the case which is as follows:
3. The petitioners had filed a writ petition bearing W.P.(C) No. 1260/2024 challenging orders of the Chief Judicial Magistrate, Srinagar, and Tehsildar Pantha Chowk, and sought release of mortgaged property. This Court, by order dated 01.02.2024, allowed the petitioners to deposit Rupees two Crores within three weeks and restrained the bank from taking coercive action against the petitioners.
4. The record reveals that prior to the filing of the aforesaid petition, the Bank had introduced an One Time Settlement (OTS) Scheme for Non Performing Assets (NPAs) (2022), under which the petitioners were allowed to settle the account for Rs.1,96,63,034.30/. Petitioners deposited Rs.20.00 Lakhs, which was adjusted towards OTS amount. The petitioners, however, failed to deposit the required 20% within 30 days, leading to non-compliance with the OTS terms.
5. The petitioners’ business establishment had 10 accounts, and these were declared as NPAs on 31.07.2019. The respondent bank issued a

notice under Section 13(2) of the SARFAESI Act on 23.08.2022 and initiated possession proceedings under Section 14 before the Chief Judicial Magistrate, Srinagar. The learned Magistrate passed an order on 24.04.2024, followed by the order of Tehsildar. The petitioners challenged these orders by filing a writ petitioner registered as WP(C) No. 1260/2024.

6. Subsequently, the Bank notified a new OTS Scheme and communicated to the petitioners on 06.02.2025 that they were eligible for settlement under the new Scheme. The outstanding balance as of 31.01.2025 was Rs. 4,71,87,830.30/ and the petitioners were required to pay Rs. 1,87,50,000/ under the new scheme. They were asked to deposit a minimum amount upfront and pay the balance within three months, and the petitioners were asked to show their willingness to settle the dues latest by 25.03.2025.
7. The petitioners deposited Rs. 25.00 Lacs on 28.03.2025 and in terms of communication dated 06.03.2025, the petitioners were required to deposit a 10% upfront amount of OTS. The petitioners had accepted the settlement, and the Bank was required to process the case of the petitioners for issuance of the sanction letter. However, the same was not issued.
8. The Learned counsel for petitioners contends that the order dated 10.12.2024 passed by this court is an impediment in the sense that when the said order was passed, the bank claimed Rs.4,71,87,830.30/, and since the petitioners failed to deposit Rs.2.00 Crores, the Court allowed the bank to initiate the process of auction. Given the changed circumstances and the fresh OTS Scheme, the petitioners seek a review

of the said order to enable them to proceed further under the new settlement terms.

9. We have heard learned counsel for the petitioners and have also perused the record, meticulously.
10. Since the petitioners have admitted in their petition that the new OTS scheme was made applicable, only subsequent to the issuance of the order dated 10.12.2024. It goes without saying that any fresh OTS scheme will have prospective operation unless it says otherwise and cannot be applied retrospectively. In view of the same, the petitioners cannot be permitted to avail the benefits of the said OTS scheme retrospectively, which tantamount to rewriting the order dated 10.12.2024, which is sought to be reviewed.
11. Before proceeding further in the matter, it is essential to delineate the scope of review applicable to the present case. This preliminary exercise is necessary to identify the boundaries within which, this Court may examine the issues raised and to clarify the extent of its jurisdiction in assessing the decision.
12. The law is well-established that review jurisdiction can be exercised only in the eventuality, where there is an error apparent on the face of record and it refers to a mistake which is self-evident and does not require a detailed examination or argument to be demonstrated. An error is said to be apparent on the face of the record, when it is so manifest and clear that no elaborate reasoning or inference is needed to detect it. It may include a patent mistake of law or fact that can be identified directly from the face of the judgment, order, or proceedings under challenge.

13. However, a mere disagreement with the reasoning or interpretation adopted by the court does not amount to such an error. A review on this ground is not an appeal in disguise, it is a limited power meant to correct grave and obvious mistakes which strike at the root of the order's legality or validity. Accordingly, the petitioner must demonstrate that the alleged error is not only evident but also goes to the very foundation of the impugned decision.
14. The Hon'ble Apex court, in case titled '*Kamlesh Verma v. Mayawati & Ors.*' reported in '*(2013) 8 Supreme Court Cases 320*', while dealing with a similar issue, has held as under:

"14. Review of the earlier order cannot be done unless the court is satisfied that material error, manifest on the face of the order, undermines its soundness or results in miscarriage of justice. This Court, in Col. Avtar Singh Sekhon v. Union of India & Ors. [1980 (Supp) SCC 562], held as under:

"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 v. Sheikh Habib this Court observed:

"1. 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."

15. 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. 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...”

16. Error contemplated under the rule must be such which is apparent on the face of the record and not an error which has to be fished out and searched. It must be an error of inadvertence. The power of review can be exercised for correction of a mistake but not to substitute a view. The mere possibility of two views on the subject is not a ground for review...

15. This court is also fortified by the judgement passed by the Hon’ble Supreme Court in the case titled “*Sanjay Kumar Agarwal vs. State Tax Officer and anr.*” reported as (2024) 2 SCC 362, wherein the following has been held:

“16. The gist of the aforesaid decisions is that:

16.1. A judgment is open to review inter alia if there is a mistake or an error apparent on the face of the record.

16.2. A judgment pronounced by the court is final, and departure from that principal is justified only when circumstance of a substantial and compelling character make it necessary to do so.

16.3. 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.

16.4. In exercise of the jurisdiction under Order 47 Rule 1 CPC, it is not permissible for an erroneous decision to be “reheard and corrected”.

16.5. A review petition has a limited purpose and cannot be allowed to be “an appeal in disguise”.

16.6 Under the guise of review, the petitioner cannot be permitted to re-agitate and re-argue the questions which have already been addressed and decided.

16.7. An error on the face of the record must be such an error which, mere looking at the record should strike and it should not require any long-drawn process of reasoning on the pointes where there may conceivably be two opinions.

16.8. Even the change in law or subsequent decision/judgment of a coordinate or larger Bench by itself cannot be regarded a ground for review.”

16. Thus in the light of the gist of the aforesaid settled legal proposition, the law on the subject is that a review petition cannot be used as a means to change the Court’s opinion or judgment. The Court can only examine error, apparent on the face of the record during a review. The Court is not permitted to re-evaluate the evidence or come to a different conclusion during a review, even if that different conclusion seems possible. Once, the Court has considered the evidence and heard both sides, the conclusion it reaches cannot be challenged in a review petition, unless, there is an error apparent on the face of the record. The power to review should be exercised with great caution, care, and only in rare or exceptional circumstances.

17. On perusal of the grounds taken in the review petition and also on the perusal of the order dated 10.12.2024, we are of the view that it is apparently clear that there is no error on the face of record which could justify the ground for review of the aforesaid order. The grounds urged in the review petition will not be applicable to the case in hand, more particularly, when the petitioners themselves have failed to comply with the order dated 18.11.2024, whereby, the petitioners were directed to deposit an amount of Rs.2.00 Crores within a period of three weeks.

18. Thus, the petitioner through the medium of this petition cannot plead altogether a new case which has no scope and ambit in the review petition as that would amount to reopening of an issue that already stands clinched.
19. For the aforementioned reasons, this court finds no merit in this Review Petition, which is accordingly dismissed along with all connected applications.

(Mohammad Yousuf Wani)
Judge

(Wasim Sadiq Nargal)
Judge

Srinagar
23.05.2025
Gh. Nabi /Secy.

Whether the order is speaking:	Yes/No
Whether the order is reportable:	Yes/No