



Serial No. 01
Supplementary List

HIGH COURT OF MEGHALAYA
AT SHILLONG

Date of Hearing: 18.06.2026

CRP No.15 of 2025

Date of Decision: 26.06.2026

Md. Munshi Ali Sonari (since deceased),
 Represented by his legal heir Smti. Zahida Begum,
 Resident of Room No.5, Basement floor,
 Shillong Muslim Union Guest House Complex,
 Quinton Road, Police Bazar Shillong,
 East Khasi Hills District, Meghalaya.

..... Petitioner

-VERSUS-

Shillong Muslim Union,
 Represented by its General Secretary,
 Eid-Gah Laban, Shillong.
 East Khasi Hills District, Meghalaya.

..... Respondent

Coram:

Hon'ble Mr. Justice B. Bhattacharjee, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. S. Chakrawarty, Sr.Adv with
 Mr. E. Laloo, Adv

For the Respondent(s) : Mr. N. Khera, Adv
 Mr. R. Kharkrang, Adv
 Ms. B. Marak, Adv

JUDGMENT

1. Heard Mr. S. Chakrawarty, learned Senior counsel assisted by Mr. E. Laloo, learned counsel appearing for the petitioner and also Mr. N. Khera, learned counsel appearing for the respondent.

2. This revision petition has been filed challenging the impugned Judgment dated 07.07.2025 passed by the Court of the District Judge, Shillong, in Review Petition No.1(H) of 2024 with a prayer for issuance of a



direction for reconsideration of the review petition by the learned District Judge.

3. The petitioner is a tenant in respect of a tenancy premises under the respondent situated in a building commonly known as ‘The Shillong Muslim Union Guest House Complex’ at Quinton Road, Shillong, since the year 1988. The respondent as plaintiff instituted the Title Suit No.34(H) of 2014 against the petitioner before the Court of the Assistant District Judge, Shillong seeking eviction of the petitioner and his family from the said tenancy premises. The Trial Court, after hearing the parties, dismissed the said title suit by the Judgment and Order dated 24.11.2021.

4. Against the Judgment and Order dated 24.11.2021, the respondent filed an appeal before the Court of the District Judge at Shillong registered as Title Civil Appeal No.1(H) of 2021. The Appellate Court after hearing the parties reversed the Judgment and Order of the Trial Court and allowed the appeal by its Judgment dated 02.05.2024 in favour of the respondent and a Decree of Eviction was granted. Being aggrieved, the petitioner filed a review application before the Appellate Court registered as Review Application No.1(H) of 2024 seeking review of the Judgment dated 02.05.2024. In the course of the proceeding of the review application, the petitioner filed an application for admission of additional documentary evidence. The Appellate Court, after hearing the parties, dismissed the said review application by the impugned Judgment dated 07.07.2025 holding that there was no merit. The petitioner, thus, has filed the instant revision petition assailing the impugned Judgment dated 07.07.2025 with a prayer for issuance of necessary order for reconsideration of the review application of the petitioner afresh by the learned Appellate Court.

5. The question of maintainability of the present revision petition has been raised by the learned counsel for the respondent on the basis of the decision of the Apex Court in *Rahimal Bathu & ors v. Ashiyal Beevi*, (2024) 20 SCC 328 besides other points touching the merits of the revision petition.



6. The learned Senior counsel for the petitioner submits that the plea of maintainability raised on the basis of the decision of *Rahimal Bathu & ors (supra)* is not tenable inasmuch as the said decision did not put a blanket ban on the exercise of revisional jurisdiction against an order rejecting review of the decree. He submits that the facts and situation before the Apex Court in the said case was totally different from that of the present case in hand and unlike the case before the Apex Court, the petitioner has not made any prayer for interference with the appellate decree by this Court. He further submits that the decision rendered by the Apex Court was in relation to a decree appealable u/s 96 CPC and not with regard to a decree appealable u/s 100 CPC as a second appeal. He submits that the only prayer made by the petitioner before this Court is to get the matter remanded for reconsideration of the review application afresh by the Appellate Court. It is the submission of the learned Senior counsel that the impugned order in the present case suffers from jurisdictional error as the learned Appellate Court failed to appreciate and apply the provision of Order 41 Rule 27 CPC and declined to entertain the prayer of the petitioner to adduce additional evidence and thereby wrongly dismissed the review application of the petitioner. He submits that the failure of the appellate court to exercise proper jurisdiction has resulted in passing of the impugned Judgment dated 07.07.2025 and the same is liable to be interfered with by this Court.

7. The learned counsel for the respondent, on the other hand, submits that in view of the law laid down by the Apex Court at para 42 of *Rahimal Bathu & ors (supra)*, no revision petition can be entertained u/s 115 CPC against an order rejecting on merits an application for review of an appealable decree. He submits that the decree which was sought to be reviewed by the petitioner is admittedly an appealable decree and hence, the petitioner now cannot challenge the impugned order by resorting to the revisional jurisdiction of this Court. The learned counsel also argues that the ground raised on behalf of the petitioner on the basis of Order 41 Rule 27 is



not tenable inasmuch as the petitioner at no point of time had filed any application seeking production of additional evidence during the pendency of the appeal. He further contends that there was also no assertion made by the petitioner in the review application that the additional evidence sought to be produced by him was not within his knowledge or could not be produced by him after exercise of due diligence at the time when the decree was passed. The learned counsel further argues on the scope and limit of exercise of revisional jurisdiction and places reliance on the decisions of *Nawal Kishore Tular v. Dinesh Chand Gupta & ors* (2001) 6 SCC 110 and *Managing Director (Mfg) Hindustan Aeronautics Ltd v. Ajit Prasad Tarway* 1972 SCC (3) 195. He submits that the impugned order of the learned Appellate Court was passed by applying settled principles of review jurisdiction and by assigning cogent reasons. He, therefore, submits that there is no merit in the instant revision petition and the same is liable to be dismissed.

8. In the case of *Rahimal Bathu & ors (supra)*, the Apex Court was dealing with a situation where the High Court entertained the revision against an order of rejection of the review application and while doing so, had modified the decree, review of which was sought for. Consequently, decree of the Trial Court which was in respect of one-sixth share of the second scheduled property, was extended to the whole of it. It was held in the said case that where the review is allowed and the decree/order under review is reversed or modified, such an order shall then be a composite order whereby the court not only vacates the earlier decree or order but simultaneously with such vacation of the earlier decree or order, passes another decree or order or modifies the one made earlier. The decree so vacated, reversed or modified is then the decree that is effective for the purpose of a further appeal, if any, maintainable under law. It was further held that a Revisional Court should not entertain a revision against an order rejecting on merits an application for review of an appealable decree, which



is, if the Revisional Court sets aside or modifies or alters a trial court's decree, the decree of the trial court would merge in the one passed by the Revisional Court. In consequence, the right of the party aggrieved by the trial court's decree to file an appeal would get affected. It is on the above backdrop, the Apex Court recorded the following finding at para 42 which reads as under: -

“For all the reasons above, we are of the considered view that where an appealable decree has been passed in a suit, no revision should be entertained under Section 115 CPC against an order rejecting on merits a review of that decree. The proper remedy for the party whose application for review of an appealable decree has been rejected on merits, is to file an appeal against that decree and if, in the meantime, the appeal is rendered barred by time, the time spent in diligently pursuing the review application can be condoned by the Court to which an appeal is filed.”

9. However, in the aforesaid decision the Apex Court has also taken note that under Order 47 CPC, it is clear that an order rejecting a review application is not appealable. The expression ‘case’ used in Section 115 CPC is of wide amplitude. It includes civil proceedings other than suits, and is not restricted to the entirety of the proceeding in a civil court. In that sense, rejection of a review application would also be a case which has been decided and, therefore, it could be canvassed that as no appeal lies against such an order, the same is amenable to the revisional jurisdiction u/s 115 CPC.

10. It emerges from the above that there is no absolute bar on the exercise of revisional jurisdiction against an order of rejection of review application. It is only in cases where exercise of jurisdiction by Revisional Court would lead to an interference with the decree in question, no revision should be entertained u/s 115 CPC against an order rejecting on merits a review of that decree. In the present revision petition, no prayer has been made to interfere with the decree of the appellate court. The prayer is to set aside the impugned Judgment of dismissal of review application and to remand back the matter for reconsideration. Hence, the bar on the exercise of revisional



jurisdiction posed by the decision of *Rahimal Bathu & ors (supra)*, will not apply in the present case. The instant revision petition, therefore, is maintainable.

11. Insofar as the contention raised on behalf of the petitioner on the basis of Order 41 Rule 27 CPC is concerned, it would be appropriate to look at the said provision which reads as: -

“Production of additional evidence in Appellate Court- (1) *The parties to an appeal shall not be entitled to produce additional evidence, whether oral or documentary, in the Appellate Court. But if-*

(a) the Court from whose decree the appeal is preferred has refused to admit evidence which ought to have been admitted, or

(aa) the party seeking to produce additional evidence, establishes that notwithstanding the exercise of due diligence, such evidence was not within his knowledge or could not, after the exercise of due diligence, be produce by him at the time when the decree appealed against was passed, or

(b) the Appellate Court requires any document to be produced or any witness to be examined to enable it to pronounce judgment, or for any other substantial cause,

the Appellate Court may allow such evidence or document to be produced, or witness to be examined.

(2) Wherever additional evidence is allowed to be produced by an Appellate Court, the Court shall record the reason for its admission.

12. A plain reading of the aforesaid provision makes it clear that Order 41 Rule 27 CPC can be invoked during the course of pendency of an appeal and the appellate court may allow production of additional evidence by the party seeking such production if it is satisfied that the stipulation made in the provision is satisfied. It is not provided anywhere that the said provision can be invoked by the appellate court while exercising its review jurisdiction under Section 114/Order 47 Rule 1 CPC. In other words, Order 41 Rule 27 CPC allows the appellate court to accept additional evidence before the final disposal of the appeal on the fulfilment of the requirement posed by the said provision.

13. On the other hand, a review application can only be filed after final disposal of a matter. Review is not an appeal in disguise. The legal basis for



bringing new evidence in review application must squarely fit within Order 47 Rule 1 CPC. The provisions of Order 41 Rule 27 cannot be made a basis for bringing new evidence under review jurisdiction of the appellate court.

14. Perusal of the impugned order of the Appellate Court reveals that the impugned Judgment dated 07.07.2025 was passed after detailed consideration of the relevant facts and laws. At para 23 of the judgment, the learned appellate court held as under: -

“In the instant case, the petitioner had in his custody the rent receipts for the period of 2011 till 2013. However, he failed to take the defence before the learned court of Assistant District Judge, Shillong nor did he produce the said rent receipts before the learned court below. The said rent receipts were sought to be produced only at the stage of arguments before this court in exercise of its appellate jurisdiction in TCA No.1 (H) 2021 without any prayer to adduce any additional evidence and again at the time of filing this review application. It was not the case of the petitioner that he was not aware of the document or that he had misplaced the document. The petitioner also had ample opportunity to seek direction to the respondent to produce the said document before the learned court below at the stage of evidence under Order XI Rule 12 and 14 CPC. However, the petitioner did not take the assistance of the law.”

15. The above finding of the learned court below has not been disputed by the petitioner in this revision petition by contending that the said finding was recorded without there being any materials on record or by travelling beyond the materials available on record. Hence, there appears no jurisdictional error in the passing of the impugned Judgment dated 07.07.2025 by the learned court below.

16. In view of the discussions made above, there is no merit in the present revision application and the same is dismissed.

17. Interim order, if any, passed earlier shall stand vacated.

Judge

Meghalaya

26.06.2026

Signature Not Verified
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CH MOMIN
Date: 2026.06.26 18:30:40 IST