

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

RP No. 74/2022 in
OWP No. 425/2010

Reserved on : 19.11.2025
Pronounced on: 06.06.2026
Uploaded on : 06.06.2026
Whether the operative part or full
judgment is pronounced : full

Puran Chand & ors.

.... Petitioner/Appellant(s)

Through:- Mrs. Deepika Mahajan, Sr. Advocate
with Mr. Atharv Mahajan, Advocate.

V/s

**Union Territory of J&K and
others**

.....Respondent(s)

Through:- Mr. Ravinder Gupta, AAG.

CORAM: HON'BLE MRS. JUSTICE SINDHU SHARMA, JUDGE
HON'BLE MR. JUSTICE SHAHZAD AZEEM, JUDGE

JUDGMENT

01. The review petitioners seek review of the judgment dated 23.02.2022 passed in OWP No. 425/2010 titled *Puran Chand & ors. vs. State of J&K and others*'. The factual matrix of the case is as under:

02. The petitioners had preferred writ petition seeking compensation in respect of their land measuring 12 Kanal 02 marlas, 03 Kanals 01 marla, 2 Kanals 19 marlas, 06 Kanals, 03 Kanals 1 marla and 14 Kanals 17 marlas in Khasra Nos. 682, 683, 684, 685 and 582 respectively situate in village Channi Himmat, Tehsil and District Jammu.

03. The petitioners submit that they are legal heirs and descendants of Chatru Ram and Kanthu Ram and their predecessors were in possession of the land. It is stated that the respondents started interfering with the peaceful possession of the petitioners over the said land so as to construct a road without any acquisition of the same, thus, constraining the petitioners

to prefer a writ petition i.e., OWP No. 965 of 2003 seeking a direction to restrain the respondents from interfering in petitioners' peaceful possession and directing them not to dispossess them from the land without adopting due course of law. This writ petition was dismissed vide order dated 10.10.2003 on the ground that the petitioners have to prove their possession by leading evidence and better to approach the Civil Court.

04. The petitioners preferred Letters Patent Appeal i.e., LPA No. 101/2003 against the judgment dated 10.10.2003 which was disposed of vide order dated 10.05.2004, by recording that the Chief Engineer has stated on affidavit that the department is not interfering in the peaceful possession of the petitioners over the land in question and held that the grievance of the petitioners no longer survives. The Review Petition i.e., Review (LPA) No. 11/2206 in LPA No. 101/2004 filed against it was also dismissed vide order dated 21.12.2006 leaving the petitioners to free to take appropriate remedy for redressal of their further grievance subsequent to Court order dated 10.05.2004.

05. It appears that the petitioners filed another writ petition i.e., OWP No. 696 of 2004 as they were being evicted from the land and road was being constructed without acquiring the same as the possession of the land was taken over. This writ petition came to be dismissed for non-prosecution vide order dated 02.12.2005.

06. The petitioners again approached this Court by filing writ petition i.e., OWP No. 425/2010 seeking compensation of land measuring 12 Kanals on the ground that construction of road work is in progress on their land without acquiring the same.

07. This Court, vide order dated 23.02.2022, dismissed the said writ petition by holding as under:-

9. In view of the facts and circumstances, it is a disputed question of fact as to when the road in question was constructed and by whom it was so constructed though subsequently may have been improved upon by the respondents. The aforesaid disputed questions of facts cannot be adjudicated upon by this court in exercise of its discretionary jurisdiction.

10. Thus, in the absence of any concrete material to prove that some land of the petitioners was utilized by the respondents for constructing the road, the petitioners cannot be held entitled to any compensation at this stage.

11. Accordingly, leaving it open for the petitioners to approach the civil court, if so advised, we decline to exercise out discretionary jurisdiction in the matter and the writ petition is dismissed.

08. The review of the judgment dated 23.02.2022 is sought by the petitioners on the ground that the Court had completely overlooked the record which shows that there was no up-gradation of the existing ground in fact the depart had undertook widening of single road into double lanning. Affidavit filed by the respondents in the earlier litigation was contrary to the record indicating that they are only upgrading the existing road. This Court failed to appreciate that the department had admitted itself that they have proposed to construct the existing damage single lane road developed by private colonizer upto double land. In fact in the compliance report dated 20.10.2012 , it was indicated that the Chief Minister during tour of the area had directed to work out estimated cost of construction of widening of the above said road to two lanning project. There was no material on record to show that the precise date or the year, when and by whom the road was initially constructed and by whom that was constructed.

09. Even as per the Technical report of DPR, it is clear that the project was not for macadamization of existing road but for the purpose of

construction of the existing damaged single lane road upto double lane. The report of the Patwari issued in 2004 specifically indicated that the department was encroaching as well as doing the construction of the road over the land. It is next submitted that this Court while considering the compliance report had ignored the fact that they have admitted that the amount of Rs. 961.24 lac stands assessed and the matter was taken with the Finance Department and subsequently, an amount of Rs. 720.93 lac was released to respondent No. 3 through BEAMS as compensation to the petitioner.

10. The respondents in their objections have stated that there is no ground, on the basis of which the judgment is sought to be reviewed, disclosed any sufficient reason in order to review the judgment. They further submit that the Hon'ble Apex court in number of cases had held that an error contemplated under the rule must be such which is apparent on the face of record and not an error which has to be fished out and searched.

11. The review of a writ petition is in terms of Rule 65 of the J&K High Court Rules, read with Order 47 Rule 1. Rule 65 of the J&K High Court Rules reads as under:

“65. Application for review of judgment - The Court may review its judgment or order but no application for review shall be entertained except on the ground mentioned in order XLVII Rule I of the Code.”

12. The principles which are provided for review under Order-47 Rule-1 CPC are also applicable in the writ proceedings and upon the discovery of new and important matter or evidence, which after the exercise of due diligence was not within the knowledge of the applicant or could not be produced by him, at the time, the order was passed or on account of some

mistake or error apparent on the face of record or any other sufficient reason may seek review of judgment or order.

13. The principles regarding review of the judgments were reiterated in **Kamlesh Verma vs Mayawati** reported as **(2013) 8 SCC 320** wherein the Hon'ble Apex Court has observed as under:-

“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* [(1921-22) 49 IA 144 : (1922) 16 LW 37 : AIR 1922 PC 112] and approved by this Court in *Moran Mar Basselios Catholicos v. Most Rev. Mar Poulouse Athanasius* [AIR 1954 SC 526 : (1955) 1 SCR 520] 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.* [(2013) 8 SCC 337 : JT (2013) 8 SC 275] . 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, it 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 negative.”

14. A review, however, cannot be filed by way of an appeal or substitution of a view or a mere possibility of two views on subject is also no

ground for review, but a review would lie to correct any mistake or error apparent on the face of record which if not corrected can lead to miscarriage of justice.

15. Review of earlier order can only be done in exceptional circumstances when the court is satisfied that there is material error manifest on the face of order which undermines its soundness or results in miscarriage of justice. The petitioners in essence are seeking a re-hearing of the matter which is not permissible in the review proceedings. It is well settled that the review is not rehearing of the original matter. The power of review cannot be said to be that conferred with appellate power which enables a superior Court to correct all errors of subordinate Court.

16. The Hon'ble Supreme Court while considering this aspect in "**Pyare Lal vs. Chhotey Lal**", AIR 1942 All 82, has held as under:

"Applications under Order 47 Rule 1 must be treated with a considerable measure of caution. That is a matter of public policy as it is obviously necessary that, save in exceptional circumstances, finality in litigation should be achieved at some point. The person who wants a review should at least prove strictly the diligence he claims to have exercised and also that the matter or evidence which he wishes to have access to is, if not absolutely conclusive, at any rate, nearly conclusive of the matter. It is not the proper function of a review application merely to supplement evidence or to make it serve the purpose merely of introducing evidence which might possibly have had some effect on the result. Order 47 Rule 1 requires a high standard of diligence".

17. In "**Aribam Tuleshwar Sharma v. Aribam Pishak Sharma**", (1979) 4 SCC 389, after referring to the decision in Shiv deo Singh's case, it was held that:

"It is true as observed by this Court in 'Shivdeo Singh v. State of Punjab', AIR 1963 SC 1909, held that there is nothing in Article 226 of the Constitution to

preclude a High Court from exercising the power of review which inheres in every court of plenary jurisdiction to prevent miscarriage of justice or to correct grave and palpable errors committed by it, But there are definitive limits to the exercise of the power of review. The power of review may be exercised on the discovery of new and important matter or evidence which, after the exercise of due diligence was not within the knowledge of the person seeking the review or could not be produced by him at the time when the order was made; it may be exercised where some mistake or error apparent on the face of the record is found; it may also be exercised on any analogous ground. But, it may not be exercised on the ground that the decision was erroneous on merits. That would be the province of a Court of appeal. A power of review is not to be confused with appellate power which may enable an Appellate Court to correct all manner of errors committed by the Subordinate Court.”

18. In “Parsion Devi and others V. Sumitri Devi and others”, (1997) 8 SCC 715, it was held 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.”

19. Similarly, in “M/s Jain Studios Ltd. V. Shin Satellite Public Com. Ltd.”, AIR SCW 2006 3592, the Hon“ble Supreme Court has held that:

“11. So far as the grievance of the applicant on merits is concerned, the learned counsel for the opponent is right in submitting that virtually the applicant seeks the same relief which had been sought at the time of arguing the main matter and had been negatived. Once such a prayer had been refused, no review petition would lie which would convert rehearing of the original matter. It is settled law that the power of review cannot be confused with appellate power which enables a superior Court to correct all errors committed by a subordinate Court. It is not rehearing of an original matter. A repetition of old and overruled argument is not enough to reopen concluded adjudications. The power of review can be exercised with extreme care, caution and circumspection and only in exceptional cases.”

20. This Court, while considering the chequered history of litigation between the petitioners and the respondents regarding compensation for the land of the petitioners falling under Khasra Nos. 682, 683, 684, 685 and 582 situated at village Channi Himmat, Tehsil and District Jammu, had come to the conclusion that there was nothing on record to prove that any part of the petitioners' land was ever acquired or the road was constructed over it by the respondents except for the fact that the existing road was repaired and macadamized by them as stated above. The very fact of the matter that whether the road was constructed by the respondents over the existing road which was repaired and macadamized or a new road had been constructed, and when and by whom it was constructed, was a disputed question of fact which would not be adjudicated by this Court leaving it open for the petitioners to approach the Civil Court. The petitioners in essence are seeking re-argue the matter which cannot be permissible in review jurisdiction.

21. We cannot accept the contention raised by the petitioner as it would amount to reopening an argument which was considered and rejected by the Court. In view of these aforesaid facts and circumstances of the matter, there is no merit in this petition and the same is, accordingly, **dismissed**.

(SHAHZAD AZEEM)
Judge

(SINDHU SHARMA)
Judge

Jammu:
06.06.2026
Ram Murti