

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**Review Petition No. 63 of 2026****Reserved on: 30.06.2026****Decided on: 30.07.2026****Date of uploading on website:
30.07.2026**

Nishant Sharma

....Petitioner

Versus

Keshav Dutt Shreedhar

....Respondent

*Coram***The Hon'ble Mr. Justice Sushil Kukreja, Judge.****The Hon'ble Mr. Justice Virender Singh, Judge.**Whether approved for reporting?¹

For the petitioner : Mr. Nishant Sharma, in person.

For the respondent : Mr. Rajnish Maniktala, Senior
Advocate with Mr. Dinkar
Bhaskar, Advocate.

Sushil Kukreja, Judge

The present review petition, under Order XLVII, Rule 1, read with Section 114 of CPC, has been filed by the petitioner against the order dated 29.04.2026 passed by this Court in OMP No. 1270/2025 in Civil Suit No. 03 of 2024 with a prayer that the same may be reviewed.

2. I have heard the petitioner, who is present in person, learned Senior Counsel for the respondent and have perused the material available on record including the order under review.

3. In the review petition it has been stated the impugned order has rendered the defence of the defendant substantially impossible by striking off extensive pleadings supported by documentary material and, therefore, caused grave prejudice to the defendant and resulted in serious miscarriage of justice. It has been further stated that this Court has failed to take into consideration the additional documents filed by the plaintiff on 05.01.2026, which materially contradict the own averments of the plaintiff in the application filed under Order VI Rule 16 CPC and clearly demonstrate that the plaintiff has selectively relied upon judicial records and documents, while simultaneously attempting to prevent the defendant from traversing and rebutting the same. The pleadings struck off from the written statement were neither alien to the controversy nor independent scandalous allegations, but were direct

traverses, rebuttals and explanations to the factual matrix consciously introduced into the suit by the plaintiff himself. It has also been stated that this Court has failed to appreciate that power under Order VI Rule 16 CPC is an exception to the ordinary rule permitting full pleadings and complete adjudication and, therefore, such power cannot be exercised mechanically or on the basis of broad and general observations that a substantial portion of the written statement is irrelevant. The non-speaking and blanket order, striking off substantial portions of a written statement without pleadingwise adjudication and without assigning cogent reasons amounts to failure of judicial duty and results in serious prejudice to the valuable right of defence available to a litigating party. However, the impugned order has virtually rendered the defence of the defendant impossible by striking off substantial pleadings supported by judicial records, FIRs, Court proceedings, official documents and other material evidence even before commencement of trial and evidence. Therefore, the impugned order suffers from apparent lack of due consideration and judicial appreciation of the material on

record and deserves to be reviewed and written statement of the defendant deserves to be restored in its entirety.

4. It is well settled that the 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. A review petition has a limited purpose and cannot be allowed to be an appeal in disguise. 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 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.

5. Section 114 read with Order 47 Rule 1 CPC prescribes the limitations for entertaining a review petition. The same are that the party filing the application for review has discovered a new and important matter or evidence after

exercise of due diligence which was not within its knowledge or could not be produced by it at the time when the decree was passed; or order made or on account of some mistake or error apparent on the face of the record or for any other sufficient reason.

6. In **S. Nagraj and Ors. v. State of Karnataka and Anr.**, **1993 Supp (4) SCC 595**, the Hon'ble Apex Court explained the scope of review observing as under:-

"19. Review literally and even judicially means re-examination or re-consideration. Basic philosophy inherent in it is the universal acceptance of human fallibility. Yet in the realm of law the courts and even the statutes lean strongly in favour of finality of decision legally and properly made. Exceptions both statutorily and judicially have been carved out to correct accidental mistakes or miscarriage of justice....."

7. The Court further held that the purpose of review is rectification of an order which stems from the fundamental principle that the justice is above all and it is exercised only to correct the error which has occurred by some accident without any blame. While deciding the said case, the Hon'ble Supreme Court placed reliance upon a number of judgments including **Raja Prithwi Chand Lal Choudhury v. Sukhraj**

Rai and Ors., AIR 1941 FC 1; and Rajunder Narain Rae v. Bijai Govind Singh (1836) 1 Moo PC 117. The same view has been reiterated by the Hon'ble Apex Court in **Oriental Insurance Co. Ltd. and Anr. v. Gokulprasad Maniklal Agarwal and Anr. (1999) 7 SCC 578.**

8. A Full Bench of this Court, in **N. D. Co-operative Transport Society Ltd. v. Beli Ram, AIR 1981 HP 1,** considered the scope of review and held that not considering an existing judgment of the Hon'ble Supreme Court may be a ground of review and for the same it placed reliance upon the judgments of the Privy Council in **Rajah Kotagiri Venkata Subbamma Rao v. Rajah Vellanki Venkatrama Rao, (1900) 27 IA 197 (PC),** wherein it was held that the purpose of review, *inter alia*, is to correct an apparent error which should not have been there when the judgment was given. The Court also placed reliance upon the judgment of the Federal Court in **Sir Hari Sankar Pal and Anr. v. Anath Nath Mitter and Ors., AIR 1949 FC 106** wherein it was held as under:-

"10.....the error could not be one apparent on the face of record or even analogous to it. When, however, the Court disposes of a case without adverting to or applying its mind to a provision of law which gives it jurisdiction to act in a particular way, that may amount to an error analogous to one apparent on the face of record sufficient to bring the case within the purview of Order 47 Rule 1, Civil Procedure Code."

9. Similarly, in ***Devaraju Pillai v. Sellayya Pillai, AIR 1987 SC 1160***, the Hon'ble Apex Court held that if a party is aggrieved of a judgment by a Court, the proper remedy for such party is to file an appeal against that judgment. A remedy by way of an application for review is entirely misconceived and if a Court entertained the application for review then it has totally exceeded its jurisdiction in allowing the review merely because it takes a different view in construction of the document.

10. In ***Delhi Administration v. Gurdip Singh Uban and Ors., AIR 2000 SC 3737***, the Hon'ble Apex Court deprecated the practice of filing review application observing that review, by no means, is an appeal in disguise and it cannot be entertained even if application has been filed for clarification, modification or review of the judgment and order

finally passed for the reason that a party cannot be permitted to circumvent or bye-pass the procedure prescribed for hearing a review application. The Court also rejected the argument that review application should be entertained to do justice in the case, observing as under:-

"24. The words 'justice' and 'injustice', in our view,. are sometimes loosely used and have different meanings to different persons, particularly to those arrayed on opposite sides..... Justice Cardozo said, The Web is tangled and obscure, shot through with a multitude of shades and colours, the skeins irregular and broken. Many hues that seems to be simple, are found, when analysed, to be complex and uncertain blend. Justice itself, which we are wont to appeal to as a test as well as an ideal, may mean different things to different minds and at different times. Attempts to objectify its standards or even to describe them, have never wholly succeeded."

11. In ***Malleeswari Vs. K. Suguna and Another***, **2025 SCC OnLine SC 1927**, it has been held as under:-

"15. It is axiomatic that the right of appeal cannot be assumed unless expressly conferred by the statute or the rules having the force of a statute. The review jurisdiction cannot be assumed unless it is conferred by law on the authority or the Court. Section 114 and Order 47, Rule 1 of CPC deal with the power of review of the courts. The power of review is different from appellate power and is subject to the following limitations to maintain the finality of judicial decisions:

15.1 The 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 of CPC.

15.2 Review is not to be confused with appellate powers, which may enable an appellate court to correct all manner of errors committed by the subordinate court.

15.3 In exercise of the jurisdiction under Order 47 Rule 1 of 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.

15.4 The power of review can be exercised for the correction of a mistake, but not to substitute a view. Such powers can be exercised within the limits specified in the statute governing the exercise of power.

15.5 The review court does not sit in appeal over its own order. A rehearing of the matter is impermissible. It constitutes an exception to the general rule that once a judgment is signed or pronounced, it should not be altered.⁶ Hence, it is invoked only to prevent a miscarriage of justice or to correct grave and palpable errors."

12. In view of the above discussion, the law of review can be summarized to the effect that it lies only on the grounds mentioned in Order 47 Rule 1 CPC. A party filing a review petition on the ground of any other "sufficient reason" must satisfy that the said reason is analogous to the conditions mentioned in Order 47 Rule 1 CPC. Under the garb of review, a party cannot be permitted to re-open the case. Review lies only when there is error apparent on the

face of the record and that fallibility is by the over-sight of the Court.

13. Therefore, the instant case requires consideration in view of the aforesaid settled legal propositions. The contention of the petitioner that impugned order suffers from patent jurisdictional error inasmuch as drastic powers under Order VI Rule 16 CPC have been exercised without detailed adjudication and without assigning legally sustainable reasons is wholly misconceived, as this Court vide order dated dated 29.04.2026 has specifically recorded in its findings that allegations have no relevance to the issues involved in the present suit. The said allegations have no role whatsoever with the defence available to the defendant under the Law of Defamation and the allegations are unnecessary and have merely been made for the purpose of prejudicing the plaintiff. Moreover no relief is sought by the defendant on the ground of these allegations and it is a bounden duty of the Court to prevent any of its processes being used for the purpose of disseminating scandalous and irrelevant allegations. The allegations, as

levelled by the defendant in the written statement when considered as a whole and subjected to judicial scrutiny, they make it manifestly clear that these are unnecessary, frivolous, scandalous and vexatious and such pleadings will prejudice, embarrass and delay the fair trial of the suit and would also amount to abuse of process of law. The petitioner further contended that this Court passed a non-speaking and blanket order striking off substantial portions of a written statement without assigning cogent reasons. However, this contention of the petitioner also deserves to be rejected, since this Court passed a speaking order by assigning cogent reasons while allowing the application filed by the plaintiff (respondent herein).

14. The petitioner has failed to point out any error apparent on the face of the record while passing the order in question. This court does not sit in appeal over its own order dt. 29.04.2026 and there is no sufficient ground on the basis of which the petition for review can be entertained. Under the garb of review, the petitioner cannot be permitted to re-open the case. Therefore, it is not the case where interference at

this stage is required, as such, the review petition being totally misconceived is dismissed, with costs of Rs. 10,000/-.

Pending application(s), if any, stands disposed of.

(Sushil Kukreja)
Judge

July 30, 2026
(raman)