

Rev.Applc(MD)No.85 of 2026

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 22.06.2026

Pronounced on : 30.06.2026

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Rev.Applc(MD)No.85 of 2026
and C.M.P.(MD)No.7416 of 2026
in
C.M.P.(MD)No.12242 of 2025
in S.A.(MD)SR.No.60186 of 2025

Annai Vailankanni Matha Kebi
through its Managing Trustee
Louis P.Rayen

... Petitioner/Petitioner/
Appellant

Vs.

1.Mohammed Abdul Kadhar

2.Sheik Syedali

...Respondents/Respondents/
Respondents

Prayer : This Review Application filed under Order 47 Rule 1 & 2 r/w 114 C.P.C., to review the order dated 19.02.2026 made in C.M.P.(MD)No. 12242 of 2025 in S.A.(MD)SR.No.60186 of 2025 on the file of this Court.

For Petitioner : Mr.S.Rajasekar
for M/s.Roy and Roy Associates



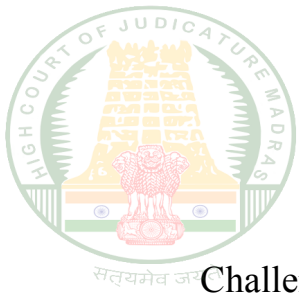
Rev.Aplc(MD)No.85 of 2026

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ORDER

The Review Application is directed against the order passed in C.M.P.(MD)No.12242 of 2025 in S.A.(MD)SR.No.60186 of 2025 dated 19.02.2026 on the file of this Court.

2. The review applicant, as plaintiff, filed a suit in O.S.No.363 of 2013 on the file of the Principal District Munsif Court, Tirunelveli, claiming permanent injunction and mandatory injunction. After full-fledged trial, the learned Principal District Munsif dismissed the suit vide judgment and decree dated 19.04.2022. Challenging the said judgment and decree, the review applicant filed an appeal in A.S.No.43 of 2022 and the learned Principal Subordinate Judge, Tirunelveli, upon considering the materials available on record and on hearing both the sides, passed the judgment and decree dated 21.09.2023 dismissing the appeal. Aggrieved by the dismissal of the first appeal, the review applicant preferred a second appeal along with the petition to condone the delay of 520 days in filing the second appeal in C.M.P.(MD)No.12242 of 2025. The respondents filed their counter statement raising objections. This Court, after enquiry, passed the impugned order dated 19.02.2026 dismissing the said petition.



Rev.Aplc(MD)No.85 of 2026

WEB COPY

Challenging the impugned order, the plaintiff, invoking Section 114 of the Code of Civil Procedure, filed the present review application.

3. Before proceeding further, let us consider the scope of review as contemplated under Section 114 and Order 47 of the Code of Civil Procedure. A combined reading of Section 114 and Order 47 of the Code of Civil Procedure, makes it clear that a Review Petition would be maintainable on (1) discovery of new and important matters or evidence which after exercise of due diligence was not within the knowledge of the applicant or could not be produced by him, when the decree was passed or the order made; (2) on account of some mistake or error apparent on the face of the record; or (3) for any other sufficient reason.

4. It is settled law that in exercise of review jurisdiction, the Court cannot re-appreciate the evidence to arrive at a different conclusion even if two views are possible in a matter. The Hon'ble Supreme Court in ***Kerala State Electricity Board Vs Hitech Electrothermics & Hydropower Ltd.and others (Review Petition (civil) 238 of 2003 dated 10/08/2005)***, has specifically observed as follows:



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Rev.Aplc(MD)No.85 of 2026

“10 In a review petition it is not open to this Court to re-appreciate the evidence and reach a different conclusion, even if that is possible. Learned counsel for the Board at best sought to impress us that the correspondence exchanged between the parties did not support the conclusion reached by this Court. We are afraid such a submission cannot be permitted to be advanced in a review petition. The appreciation of evidence on record is fully within the domain of the appellate court. If on appreciation of the evidence produced, the Court records a finding of fact and reaches a conclusion, that conclusion cannot be assailed in a review petition unless it is shown that there is an error apparent on the face of the record or for some reason akin thereto. It has not been contended before us that there is any error apparent on the face of the record. To permit the review petitioner to argue on a question of appreciation of evidence would amount to converting a review petition into an appeal in disguise.”

5. In ***Lily Thomas, Etc. vs Union Of India and Others*** reported in (2000) 6 SC 224, the Hon'ble Apex Court has held that the power of review can be exercised for correction of a mistake and not to substitute a view and such powers can be exercised within the limits of the statute



Rev.Aplc(MD)No.85 of 2026

WEB COPY

dealing with the exercise of power. It is beyond any doubt or dispute that the review Court does not sit in appeal over its own judgment or order. It is settled law that a rehearing of the matter is impermissible in law. The word “review” would mean the act of looking at a matter something again with a view to correction or improvement. No doubt, the review is a creation of a statute and not an inherent power. It is also not an appeal in disguise. A judgment may be open to review, inter alia, where there is a mistake or an error apparent on the face of the record under Order 47 Rule 1 C.P.C. 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 to review under Order 47 Rule 1 C.P.C, and it is not permissible for an erroneous decision to be reheard and corrected, but a review petition has a limited scope and cannot be allowed to be an 'appeal in disguise'.

6. The Hon'ble Supreme Court in *Malleeswari Vs. K.Suguna and another in SLP (C) No.12787 of 2025*, reported in *MANU/SC/1240/2025*, dated 08.09.2025 has dealt with the review jurisdiction and it is necessary to refer the following passages:



“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



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Rev.Aplc(MD)No.85 of 2026

constitutes an exception to the general rule that once a judgment is signed or pronounced, it should not be altered. Hence, it is invoked only to prevent a miscarriage of justice or to correct grave and palpable errors.

16. To wit, through a review application, an apparent error of fact or law is intimated to the court, but no extra reasoning is undertaken to explain the said error. The intimation of error at the first blush enables the court to correct apparent errors instead of the higher court correcting such errors. At both the above stages, detailed reasoning is not warranted.

17. Having noticed the distinction between the power of review and appellate power, we restate the power and scope of review jurisdiction. Review grounds are summed up as follows:

17.1 The ground of discovery of new and important matter or evidence is a ground available if it is demonstrated that, despite the exercise of due diligence, this evidence was not within their knowledge or could not be produced by the party at the time, the original decree or order was passed.

17.2 Mistake or error apparent on the face of the record may be invoked if there is something more than a mere error, and it must be the one which is manifest on the face of the record. 8 Such an error is a patent error and not a mere wrong decision. An error which has to be



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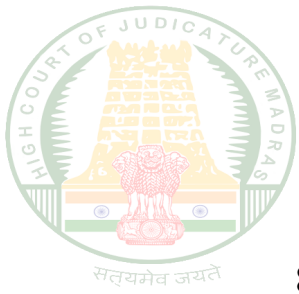


Rev.Aplc(MD)No.85 of 2026

established by a longdrawn process of reasoning on points where there may conceivably be two opinions can hardly be said to be an error apparent on the face of the record.

17.3 Lastly, the phrase 'for any other sufficient reason' means a reason that is sufficient on grounds at least analogous to those specified in the other two categories."

7. The learned counsel appearing for the review applicant would submit that this Court has failed to take into consideration the settled principle that a liberal approach ought to be adopted while considering applications for condonation of delay; that this Court has failed to appreciate that Section 5 of the Limitation Act confers discretion upon the Court, which is required to be exercised judiciously in accordance with the well-settled principles governing the exercise of judicial discretion; that the expression "sufficient cause" must receive a liberal construction so as to advance substantial justice when neither negligence nor inaction is attributable to the review applicant; and that this Court has also failed to take into consideration the fact that the review applicant had sought condonation of a delay of only 520 days, in respect of which the doctrine of prejudice may not be attracted.

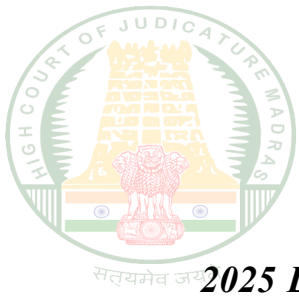


Rev.Applc(MD)No.85 of 2026

WEB COPY

8. The review applicant, in the review grounds, has relied upon some decisions of the Hon'ble Supreme Court and contended that a liberal approach ought to be adopted, while considering applications for condonation of delay.

9. At the outset, it is pertinent to mention that, in the affidavit filed in support of the delay condonation petition, the review applicant has canvassed two reasons for the delay and the first is that the review applicant had to obtain consent from the members of the Trust to file the second appeal and the second is that the funds necessary for filing the second appeal could be mobilized only subsequently. This Court, in the impugned order, has referred to the decisions of the Hon'ble Supreme Court in *H.Guruswamy and Others Vs. A.Krishnaiah Since deceased by Lrs* reported in *2025 SCC Online SC 54*; *State of Madhya Pradesh Vs. Ramkumar Choudhary* reported in *2024 SCC Online SC 3612*; *Union of India Vs. Jahangir Byramiji Jeejeebhoy(D) through his legal heir,* reported in *2024 SCC Online SC 489*; *Shankargir Vs. State of Madhya Pradesh and another* passed in *Civil Appeal No.14613 of 2025, dated 05.12.2025*; *Thirunagalingam Vs. Lingeswaran and another* reported in



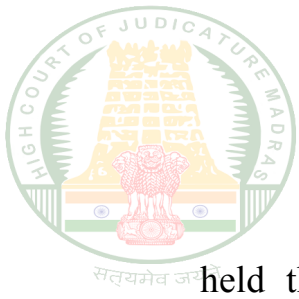
Rev.Applc(MD)No.85 of 2026

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2025 Live Law SC 560 and **Pathapati Subba Reddy (died) by L.Rs., and Others Vs. The Special Deputy Collector (LA)** reported in **(2024) 4 SCR 241** and after considering the principles laid down therein, decided the petition for condonation of delay.

10. This Court has specifically observed that the review applicant has not stated when the Trust meetings were conducted, how many Trust members participated, what resolution was passed at such meeting or to why there was a delay in obtaining the consent of the Trust members and that the review applicant has not produced any iota of evidence to show when the meetings were convened and when the resolution giving permission to prefer the Second Appeal came to be passed. This Court has also observed that in any event, obtaining the consent of the Trust members is an internal affair of the Trust committee and, by itself, cannot constitute a valid or sufficient ground for condoning the delay.

11. With regard to the second reason assigned for the delay, this Court, placing reliance on the decision of the Hon'ble Supreme Court in **Ajay Dabra v. Pyare Ram and Others** reported in **AIR 2023 SC 698**, has



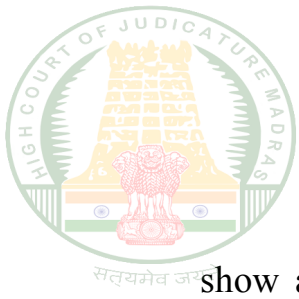
Rev.Aplc(MD)No.85 of 2026

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held that the plea that the necessary funds could be mobilised only subsequently cannot be regarded as a sufficient cause within the meaning of Section 5 of the Limitation Act.

12. It cannot be laid down as a hard and fast rule that a liberal approach must invariably be adopted in every petition seeking condonation of delay. The question whether sufficient cause has been made out necessarily depends upon the facts and circumstances of each case. In the case on hand, this Court has specifically held that the review applicant had neither assigned any valid reason nor furnished any sufficient explanation for the delay of 520 days and, on that basis, dismissed the petition filed under Section 5 of the Limitation Act.

13. It is pertinent to note that a court's review power under Order 47 Rule 1 CPC is limited to specific grounds and cannot be exercised as an inherent or appellate power. The review applicant has been attempting to re-agitate the same points that were already raised and decided in the impugned order. The review applicant's arguments are only a reiteration of previously raised and rejected grounds. The review applicant has failed to



Rev.Aplc(MD)No.85 of 2026

WEB COPY

show any error apparent on the face of the records. Even assuming for arguments sake that this Court's finding were erroneous, that alone would not justify revisiting the order.

14. In view of the foregoing discussion, this Court concludes that the review application is devoid of merit and the same is liable to be dismissed.

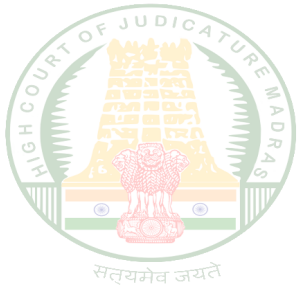
15. In the result, the Review Application is dismissed. No costs. Consequently, the connected Miscellaneous Petition is also dismissed.

30.06.2026

NCC :yes/No
Index :yes/No
Internet:yes/No
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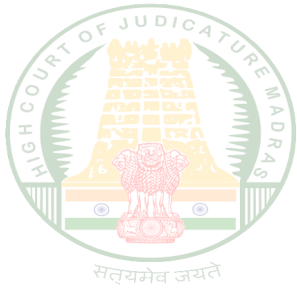
- 1.The Principal District Munsif,
Tirunelveli.
- 2.The Principal Subordinate Judge,
Tirunelveli.



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Rev.Aplc(MD)No.85 of 2026



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Rev.Aplc(MD)No.85 of 2026

K.MURALI SHANKAR,J.

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**Pre-Delivery Order made in
Rev.Aplc(MD)No.85 of 2026
and C.M.P.(MD)No.7416 of 2026**

Dated : 30.06.2026