



2026:AHC:187551

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HIGH COURT OF JUDICATURE AT ALLAHABAD

CIVIL MISC REVIEW APPLICATION DEFECTIVE No. - 248 of 2026

Chandra Bali and 8 others

.....Applicant(s)

Versus

Deputy Director of Consolidation and 49 others

.....Opposite Party(s)

Counsel for Applicant(s)	:	Ramesh Chandra Tiwari, Sr. Advocate, Vishakha Pande
Counsel for Opposite Party(s)	:	C.S.C.

Court No. - 36

HON'BLE SAURABH SHYAM SHAMSHERY, J.

1. The judgment under review has upheld concurrent findings returned by Appellate and Revisional Authorities under U.P. Consolidation of Holdings Act, 1953 and for reference, relevant part thereof is quoted below :-

“10. It would be apposite to refer paragraph 65-66 of a recent judgment passed by Supreme Court in **Central Council for Research in Ayurvedic Sciences and another vs. Bikartan Das and others**, 2023 SCC Online SC 996 wherein scope of writ of certiorari is reiterated.

“65. Thus, from the various decisions referred to above, we have no hesitation in reaching to the conclusion that a writ of certiorari is a high prerogative writ and should not be issued on mere asking. For the issue of a writ of certiorari, the party concerned has to make out a definite case for the same and is not a matter of course. To put it pithily, certiorari shall issue to correct errors of jurisdiction, that is to say, absence, excess or failure to exercise and

also when in the exercise of undoubted jurisdiction, there has been illegality. It shall also issue to correct an error in the decision or determination itself, if it is an error manifest on the face of the proceedings. By its exercise, only a patent error can be corrected but not also a wrong decision. It should be well remembered at the cost of repetition that certiorari is not appellate but only supervisory.

66. A writ of certiorari, being a high prerogative writ, is issued by a superior court in respect of the exercise of judicial or quasi-judicial functions by another authority when the contention is that the exercising authority had no jurisdiction or exceeded the jurisdiction. It cannot be denied that the tribunals or the authorities concerned in this batch of appeals had the jurisdiction to deal with the matter. However, the argument would be that the tribunals had acted arbitrarily and illegally and that they had failed to give proper findings on the facts and circumstances of the case. We may only say that while adjudicating a writ-application for a writ of certiorari, the court is not sitting as a court of appeal against the order of the tribunals to test the legality thereof with a view to reach a different conclusion. If there is any evidence, the court will not examine whether the right conclusion is drawn from it or not. It is a well-established principle of law that a writ of certiorari will not lie where the order or decision of a tribunal or authority is wrong in matter of facts or on merits. (See : King v. Nat Bell Liquors Ltd., [1922] 2 A.C. 128 (PC))”

[emphasis supplied]

11. In above factual and legal background, now this Court proceeds to consider rival submissions. It is the case of petitioners that they were sole occupants of the land and were recorded in same capacity in basic year. The Consolidation Officer has rightly accepted their submissions, however, the Appellate Authority and Revisional Authority have interfered in above finding and erroneously held that on basis of orders and acts, the respondents were also in possession of land being co-sharer.

12. As referred above, the Consolidation Officer has returned a finding that the petitioner was recorded under Column-IX of land in dispute and in case area become lesser in pursuance of *karar* dated 29.09.1955, the same must have recorded in revenue record and, therefore, respondents were not in possession after 1955 and respondents were not able to prove their possession on basis of any document. However, aforesaid finding was set aside by Appellate Authority on the ground that in the proceedings under Section 180 of U.P. Tenancy Act, an application was filed by all parties and on 29.09.1955, possession was handed over to all decree-holders

including respondents and this fact was not denied by petitioner i.e. appellants were handed over possession in the year 1955. In other words, if respondents were dispossessed, they were re-entered on 29.09.1955 along with others. Aforesaid findings were erroneously confirmed by the Revisional Authority.

13. I have carefully perused the order passed by all three Authorities and have found that findings returned by Appellate Authority are based on admitted documents and since there are factual findings do not appear to be perverse as well as that learned counsel for petitioner has not able to prove that they were beyond jurisdiction either, therefore, in light of **Central Council for Research in Ayurvedic Sciences (supra)** since there is no manifest error in the impugned order so that this Court could not interfere with concurrent findings.

14. The judgment cited by learned counsel for petitioner would also not be helpful in the facts and circumstances of this case.

15. There are concurrent findings of Appellate Court and Revisional Authority in regard to effect of application dated 06.09.1955 and that on 29.09.1955, all decree holders were granted possession, which have not been disputed.

16. It was also substantiated by the statement of petitioner recorded in proceedings undertaken under Section 180 of U.P. Tenancy Act.

17. I have also perused the submissions of parties which are annexed along with this writ petition which also indicate that there was no perversity in the findings returned by the Appellate as well as Revisional Authorities.

18. In view of above, this writ petition, being *sans merit*, is **dismissed.**”

2. Law in regard to scope of review was reiterated by Supreme Court in the cases of **Sanjay Kumar Agarwal vs. State Tax Officer (1) and another, 2023 INSC 963, Malleeswari vs. K. Suguna and another, 2025 INSC 1080** as well as **State of West Bengal and others vs. Jai Hind Private Limited, (2026) 5 SCC 481** and for reference, relevant part of said judgments are quoted below :-

Sanjay Kumar Agarwal (supra)

“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 principle is justified only when circumstances 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 record justifying the court to exercise its power of review.

16.4. In exercise of the jurisdiction under Order 47 Rule 1CPC, 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 reagitate and reargue the questions which have already been addressed and decided.

16.7. An error on the face of 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 points 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 as a ground for review.”

“Malleeswari (supra)

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 (*Hari Vishnu Kamath v. Syed Ahmad Ishaque*, (1954) 2 SCC 881 : (1955) 1 SCR 1104.) Such an error is a patent error and not a mere wrong decision. 9 *T.C. Basappa v. T. Nagappa*, (1954) 1 SCC 905 : AIR 1954 SC 440. An error which has to be established by a long-drawn 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. 10 *Satyanarayan Laxminarayan Hegde v. Mallikarjun Bhavanappa Tirumale*, AIR 1960 SC 137.

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. 11 *Chhajju Ram v. Neki*, 1922 SCC OnLine PC 11”

State of West Bengal vs. Jai Hind Pvt. Ltd. (supra)

“76. As regards the scope of review, it is well settled that it is of a limited and narrow one, unlike the case of appeal, where the appellate court could revisit the entire facts and could re-hear the complete matter on merits. On the other hand, the purpose of a review is to rectify manifest or exceptional wrongs. It is not for reappreciating facts or seeking a different conclusion. Thus, a review could not be an appeal in disguise by reappreciating the evidence and grounds which have already traversed or come to a conclusion.

77. Review is essentially to strike a balance between the rule of finality, which is crucial for maintaining legal certainty and to avoid irremediable injustice caused by patent mistakes, fraud, failure of natural justice or similar exceptional situations, as was held in *Northern India Caterers (India) Ltd. v. State (UT of Delhi)* [*Northern India Caterers (India) Ltd. v. State (UT of Delhi)*, (1980) 2 SCC 167 : (1980) 45 STC 212]. It is for this reason that the courts have emphasised from time to time that review must be exercised with great caution and only when the requisite limited criteria are satisfied, in which the error must be evident and not one which requires elaborate arguments to discover.

78. One can find the basic legal postulates of the scope of review in Section 114 read with Rule 1 of Order 47CPC, which are applied in all proceedings in which the power of review is exercised. Thus, only on the following grounds, a review would lie:

(i) Discovery of new and important matter or evidence; or
(ii) Mistake or error apparent on the face of the record; or
Any other sufficient reason.”

3. Sri R.C. Singh, learned Senior Advocate assisted by Sri R.C. Tiwari, learned counsel for review applicants/petitioners has referred grounds of review mentioned in this application and statement of witnesses recorded during proceedings. For reference, relevant grounds are mentioned below :-

“iii. Because the judgment in review suffers from error apparent on the face of record in so far as the learned single judge has not considered a single submission made by the petitioner before delivering the judgment under review and as such the judgment under review is an *ex parte* judgment and has been passed without considering the submission of the petitioner and grounds taken in the writ petition.

vi. Because the A.S.O.C. and the D.D.C. as well as this Hon'ble Court have committed a fundamental error of law in not conferring Adhvasi right' in accordance with the provision of Section 20 (b) (i) of the Act, 1950 on the basis entry made in 1356F. in favour of Ram Murat only (ancestor of the petitioners herein).

vii. Because the Assistant Settlement Officer, Consolidation and the Deputy Director of Consolidation as well as this Hon'ble Court have committed grave and manifest error of law in not taking entry of 1356F. as it is and interpreted the same wrongly to be made as in representative capacity, which in contrary to law settled in this regard by this Hon'ble Court in a series of decisions reported in AIR 1961 SC 143; 1968 (3) SCR 498; 1968 (7) SCR 800; 1973 (1) SCR 727; 1976 Supp. SCR 519; 1979 (2) SCR 296; AIR 1989 SC 2296, 1989 Supp. (2) SCC 722 (II) and (1990) 3 SCC 285 wherein it is consistently held by this Hon'ble Court that correctness of entry of 1356F cannot be gone into and entry has to be accepted as it is and also no enquiry be made in this regard. In a decision reported in (1964) 7 SCR 800 at page 808 (Amba Prasad Vs. Abdul Noor Khan) wherein this Hon'ble Court has examined the scheme of the section and held that the title to possession as adhivasi depends on the entry in Khasra of 1356F. The section eliminates enquiries into possession in accepting the record in the Khasra.

In another decision of this Hon'ble Court in case of Nath Singh Vs. Board of Revenue, reported in (1968) 3 SCR 498 in answering the contention that the correctness of the entry in record of Khasra of 1356 Fasli could be gone into and where the respondents are recorded only as sub-tenant and not as occupant, they could not get the benefit of Section 20 (b) (i) of the Act, held as under:-

"The records of rights, for the year 1356 Fasli had not been corrected afterwards. We have to go by the entry in the record of rights and no enquiry need be made as to when the respondents became sub-tenants after the decision in favour of the landlord, Ram Dhani Singh. The last decision of this Court also shows that as between the tenant and sub-tenant the entry in record of rights in favour of sub-tenant makes him the occupant entitled to the adhivasi rights under Section 20 of the Act."

viii. Because this Hon'ble Court has completely failed to consider that the decisions rendered by the A.S.O.C. and the D.D.C. suffered from non-consideration of oral and documentary evidence and also mistake of law apparent on the face of record by wrongly conferring co-tenancy rights to the respondents by treating the entry made in 1356F in a representative capacity.

ix. Because this Hon'ble Court has committed a grave error in not appreciating that in absence of any evidence on record and finding that the family was joint in 1356F., hence the A.S.O.C. and the D.D.C. had no occasion to interpret the entry of 1356F made in favour of Ram Murat in a representative capacity.”

4. In above background and submissions made on basis of grounds in review application, first issue is whether judgment under review has considered the arguments of learned counsel for petitioner placed during hearing of writ petition and for that Court takes note of paragraphs 3, 4 and 7 of judgment under review which are quoted below :-

“3. Learned counsel has further submitted that only basis on which claim of contesting respondents was accepted was outcome of a suit filed by erstwhile occupant of land wherein both petitioners and respondents were parties and claim of plaintiff that both petitioner and respondents have no right on land in dispute was rejected and it was wrongly interpreted by the two Authorities that right of petitioners as well as contesting respondents were on same footing, whereas on basis of revenue entries, only petitioners were recorded as occupant at the time of U.P. Zamindari Abolition Act came into force and accordingly, they became *adivasi* and later on *sirdar*. No such right was accrued to contesting respondents.

4. In this regard learned counsel for petitioner has placed reliance upon the findings returned by the Consolidation Officer in its order and relevant part thereof is quoted below :-

“परन्तु कागजी सबूत से उदय शंकर आदि का कब्जा नहीं साबित होता अतः वंशराज के बयान मात्र से उदय शंकर आदि धारा 210 के अन्तर्गत सीरदार नहीं हो सकते। क्योंकि उनका कब्जा किसी कागजी सबूत से साबित नहीं होता उदय शंकर ने स्वयं बयान किया कि लोग उनके होश के पहले से अलग है। अतः वंशराज आदि के साथ उनका मुस्तरका कब्जा नहीं हो सकता। जगरनाथ आदि प्रतिवादी के खिलाफ रेसजुडिकेटा का सिद्धान्त अरिज है।”

7. In rejoinder, learned counsel for petitioner has placed reliance upon a judgment of this Court in **Udai (dead) Ram Lakhan (dead) Karedin and others vs. Dy. Director of Consolidation, Varanasi and others**, 1990 RD Page 9 and a judgment of Supreme Court in **D.S.**

Lakshmaiah and another vs. L. Balasubramanyam and another, (2003) 10 SCC 310 that -:

“18. The legal principle, therefore, is that there is no presumption of a property being joint family property only on account of existence of a joint Hindu family. The one who asserts has to prove that the property is a joint family property. If, however, the person so asserting proves that there was nucleus with which the joint family property could be acquired, there would be presumption of the property being joint and the onus would shift on the person who claims it to be self-acquired property to prove that he purchased the property with his own funds and not out of joint family nucleus that was available.””

5. Court is of the view that arguments raised by the then learned counsel for petitioners have been clearly noted and in later part of judgment under review, Court has noted and considered findings returned by Appellate and Revisional Authorities and has placed reliance on a judgment of Supreme Court in **Central Council for Research in Ayurvedic Sciences and another vs. Bikartan Das and others, 2023 SCC Online SC 996** and finally as referred above, in paragraphs 11, 12, 13 and 17 of said judgment, Court has considered the submissions and returned findings, therefore, a ground that in judgment under review, not a single argument of the then learned counsel for petitioner was considered is liable to be rejected being contrary to record, hence, rejected. Therefore, there is no error apparent on face of record so far as this submission is concerned.

6. Learned Senior Advocate has also vehemently referred that entry of 1356-F was not considered in its correct perspective and had wrongly interpreted that it was made in representative capacity. In this regard, Court takes note of relevant part of judgment of Appellate and Revisional Authorities that it was specifically held that petitioners though have possession in 1356-F but subsequently in 1955, contesting respondents have taken possession thereof. Aforesaid finding was based on oral and documentary evidence, therefore, it cannot be held that it was a perverse finding, therefore, it was not a case that where concurrent

findings returned by Appellate and Revisional Authorities could be interfered in writ jurisdiction.

7. Otherwise also, within a limited scope of review, this Court cannot be considered review application as an appeal to scrutinize judgment under review. The judgment under review is a reasoned judgment based on consideration of rival submissions and material on record, therefore, it is not a case where there is error apparent on face of record.

8. In aforesaid circumstances and discussion and law on scope of review, no reason exists to review judgment under review.

9. Accordingly, review application is **rejected**.

(SAURABH SHYAM SHAMSHERY, J.)

September 09, 2026

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