

Maria S.

IN THE HIGH COURT OF BOMBAY AT GOA

**CIVIL APPLICATION (REVIEW) NO.6 OF 2023
IN
WRIT PETITION NO.1961 OF 2021(FILING)**

Pandurang Damu Kamat
Versus

... Applicant

George Veerampully

...Respondent

Mr R. G. Ramani *with Mr Pranav Shenvi, Advocate for the Applicant.*

Mr D. Vernekar, Advocate for the Respondent.

CORAM: M. S. KARNIK, J

DATED: 15th MARCH 2023

P.C.

1. Heard learned Senior Counsel, Shri Ramani, for the petitioner.
2. My attention is invited to the decision of the Hon'ble Supreme Court in ***Board of Control for Cricket In India And Another v/s. Netaji Cricket Club And Others'***. Shri Ramani places reliance on paragraphs 89, 90 and 92 of the said decision which read thus:-

'89. Order 47, Rule 1 of the Code provides for filing an application for review. Such an application for review would be maintainable not only upon discovery of a new and important piece of evidence or when there exists an error apparent on the face of the record but also if the same is necessitated on account of some mistake or for any other sufficient reason.'

1 (2005) 4 SCC 741

'90. Thus, a mistake on the part of the court which would include a mistake in the nature of the undertaking may also call for a review of the order. An application for review would also be maintainable if there exists sufficient reason therefor. What would constitute sufficient reason would depend on the facts and circumstances of the case. The words 'sufficient reason' in Order 47, Rule 1 of the Code is wide enough to include a misconception of fact or law by a court or even an Advocate. An application for review may be necessitated by way of invoking the doctrine "actus curiae neminem gravabit".'

'91...

'92. Yet again in Lily Thomas, this Court has laid down the law in the following terms:(SCC pp. 247-48, para 52)

"52. The dictionary meaning of the word "review" is "the act of looking, offer something again with a view to correction or improvement". It cannot be denied that the review is the creation of a statute. This Court in *Patel Narshi Thakershi v. Pradyumansinghji Arjunsinghji*, AIR 1970 SC 1273 held that the power of review is not an inherent power. It must be conferred by law either specifically or by necessary implication. The review is also not an appeal in disguise. It cannot be denied that justice is a virtue which transcends all barriers and the rules or procedures or technicalities of law cannot stand in the way of administration of justice. Law has to bend before justice. If the Court finds that the error pointed out in the review petition was under a mistake and the earlier judgment would not have been passed but for erroneous assumption which in fact did not exist and its perpetration shall result in miscarriage of justice nothing would preclude the Court from rectifying the error".

3. Mr Ramani strenuously urged that the trial Court was justified in framing the additional issue and this Court was not justified in interfering with the order of the trial Court framing the additional issue of tenancy. Shri Ramani virtually tried to re-argue the matter.

4. In my opinion, the order does not suffer from any error apparent on the face of record for me to interfere in the exercise of review jurisdiction.

5. The petition is rejected.

M. S. KARNIK, J

MARIA SUZANA
REBELLO

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