127-129. 27.04.2026.
Court No.08.

(Pritam)

RVW 35 of 2025
with
CAN 1 of 2025
with
CAN 2 of 2025.

KMC & Ors.
-Vs.-
Swapan Kr. Ghosh.

With

CPAN 556 of 2025

Swapan Kumar Ghosh.
-Vs.-
Dhaval Jain Municipal Commissioner
KMC & Ors.

With

FMA 657 of 2022

Swapan Kumar. Ghosh.
-Vs.-
The KMC & Ors.

Mr. Achintya Banerjee,
Mr. Swapan Kr. Debnath,
Ms. Sharmila Deb.

….for the KMC.

Mr. Alok Kr. Ghosh.

….for the respondent in RVW 32/2025, for the petitioners in CPAN 556/2025 & for the appellant in FMA 657/2022.

In Re :- CAN 2 of 2025.

1. This is an application for condonation of delay by 355 days in filing an application for review of a judgment and order dated 21st February, 2024, whereby, we had disposed of FMA 657 of 2022 by setting aside the judgment and order impugned in the appeal.
2. We have heard learned counsel for the parties on the point of delay. The explanation sought to be furnished in the application for condonation of delay does not really impress us. However, taking a lenient approach and for the ends of justice, we condone the delay.
3. Accordingly, CAN 2 of 2025 is disposed of.

In Re :- RVW 32 of 2025 and CAN 1 of 2025.

4. Under review in this application, is a judgment and order dated February 21, 2024 passed by us, whereby, we had allowed FMA 657 of 2022 by setting aside the judgment and order of the learned Single Judge impugned in the appeal.
5. Essentially, two issues fell for determination in the appeal. Firstly, whether or not the appellant was served with a notice of the hearing that KMC claims was held on August 29, 2011, at which, the proposed enhanced annual valuation of the appellant's share in the concerned property for the period from the fourth quarter of 2006-2007 and from the third quarter of 2010-2011, was confirmed by the Hearing Officer.

Secondly, whether or not the demand raised by KMC on the appellant vide letter of intimation dated October 21, 2014, was a demand for property tax already paid by the appellant.

6. What we are concerned with in the present review application is the first issue. The review applicant, i.e., KMC, claims that notice of the meeting held on August 29, 2011 was, in fact, served on the appellant. Despite such service, the appellant did not attend the meeting. As such, the Hearing Officer proposed enhanced valuation. There is no infirmity in such action of the Hearing Officer.

7. By way of a supplementary affidavit filed in connection with the review petition, KMC has produced two documents. The first document is captioned as “THE KOLKATA MUNICIPAL CORPORATION, BOOK 1-QUAIR, year 2008-2009”. The same document also has the following endorsement “2011 Hearing Notice Khata”. The second document is said to be an extract from the aforesaid “Hearing Notice Khata”.

8. The learned advocate for the KMC relies on the fourth entry on the second document, which pertains to notice purportedly issued to 41/1, Chand Mohammdad Road, Kolkata – 700 092. The learned advocate says that this would demonstrate that the appellant duly received notice of hearing before the Hearing Officer, but chose to stay away.

9. We are not impressed with the argument advanced on behalf of the KMC.

10. Firstly, the scope of a review petition is limited. The grounds of review are enumerated in Order XLVII Rule 1 of the Code of Civil Procedure. Generally, a court interferes on a review application only if there is error apparent on the face of the order under review. A review application cannot be allowed to be an appeal in disguise. The merits of the appeal cannot be re-opened and the appeal cannot be re-heard on a review application. Of course, if it can be demonstrated by the review applicant that a document or certain documents, very relevant to the issue involved, could not be produced before the court in spite of due diligence having been exercised by the review applicant, the review court may interfere to prevent miscarriage of justice.

11. In the present case, it has not been demonstrated by the KMC that the two documents said to be relied upon by it in connection with the review application, referred to above, could not be produced by it at the time of hearing of the appeal, despite due diligence having been exercised by it. It is not the case that the documents were not in existence when the appeal was heard and disposed of. Just a mere statement that in spite of best efforts, KMC could not produce such documents at the time of hearing of the appeal is, in our

opinion, wholly inadequate to entitle KMC to invoke the review jurisdiction of this Court.

12. The decision cited by learned advocate for the review applicant, i.e., *Malleeswari vs. K. Suguna & Anr.* reported at *2025 INSC 1080* recounts the law on review. It says, *inter alia*, that the ground of discovery of new and important matter or evidence is a ground for review if it is demonstrated that despite exercise of due diligence, such evidence was not within the parties' knowledge or could not be produced at the time when the original order was passed. The said decision, however, also says that in exercise of jurisdiction under Order XLVII Rule 1 of the CPC, it is not permissible for an erroneous decision to be re-heard and corrected. A review petition has a limited purpose and cannot be allowed to be an appeal in disguise. The review court does not sit in appeal over its own order. The review is an exception to the general rule that once a judgment is signed or pronounced, it should not be altered. Such jurisdiction is invoked only to prevent a miscarriage of justice or to correct grave and palpable errors.

13. These are settled propositions of law which the Hon'ble Supreme Court has been pleased to reiterate in the aforesaid decision. The said principles do not, however, advance the review applicant's case to any extent.

14. Apart from the above, the documents disclosed in this review application filed by the KMC along with its supplementary affidavit also do not clearly demonstrate that notice of the concerned hearing was, in fact, served on the appellant. The second document merely mentions a number, an address being 41/1, Chand Mohammad Road, Kolkata – 700 092 and fourth quarter of 2006-2007.

15. The learned senior counsel for the respondent in this review application, has drawn attention of this court to earlier notices issued by KMC in respect of the said property. Such notices, which are part of the appeal records, were addressed to 2 Pallisree Colony, Kolkata - 700 092. In other words, notices, for annual valuation or assessment of premises no.41/1, Chand Mohammad Road, were sent by KMC to 2, Pallisree Colony, Kolkata 700 092. Therefore, even if we assume that the extract from the "Hearing Notice Khata" said to be relied upon by KMC indicates service of notice of the concerned hearing to the appellant, the same was not sought to be sent to 2, Pallisree Colony, Kolkata – 700 092. The "Hearing Notice Khata" has no mention of such address. This would strengthen the appellant's case that he did not receive notice of the concerned hearing. It appears that in other cases, notices of assessment were sent to the appellant at 2, Pallisree Colony, Kolkata – 700 092. But in the present case,

even assuming that notice was sent, the same was sent to 41/1, Chand Mohammad Road and therefore, almost certainly would not have reached the appellant's hands.

16. We see no error apparent on the face of the judgment and order under review.

17. We also see that there will be no miscarriage of justice if we decline to interfere on this review application. The only exercise that KMC is required to carry out is to issue fresh notice to the appellant and consider the matter of fixation of annual valuation afresh.

18. In view of the above, even if the said two documents being annexures to KMC's supplementary affidavit filed in this review application were produced at the time of hearing and disposal of the appeal, the result of the appeal would not have been any different.

19. In the premises, we find no reason or ground to review our judgment and order dated February 21, 2024.

20. Accordingly, the review application being RVW 32 of 2025 stands dismissed along with the connected stay application.

21. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all formalities.

In Re :- CPAN 556 of 2025.

22. At this juncture, learned advocate for the review applicant prays for extension of time to comply with the judgment and order dated February 21, 2024. Such time is extended by 4 weeks from date.

23. The contempt application that has been filed by the appellant be listed after 5 weeks.

(Apurba Sinha Ray, J.) **(Arijit Banerjee, J.)**