

HIGH COURT FOR THE STATE OF TELANGANA HYDERABAD

MAIN CASE No:W.P.No.18934 of 2024

PROCEEDING SHEET

SL. NO	DATE	ORDER	OFFICE NOTE
	04.04.2025	<u>ACJ & JAK, J</u> <u>I.A.No.1 of 2025 (Delay Petition)</u> <u>in</u> <u>W.P.No.18934 of 2024</u> I.A.No.1 of 2025 is filed seeking to condone the delay of 196 days in filing the review petition. For the reasons stated in the accompanying affidavit, the delay of 196 days is condoned and the application is ordered. ACJ JAK, J <u>I.A.No.3 of 2025 (Review Petition)</u> <u>and I.A.No.2 of 2025 (Suspension Petition)</u> <u>in</u> <u>W.P.No.18934 of 2024</u> I.A.No.2 of 2025 is filed to suspend the recovery certificate in RC.No.61 of 2023 in O.A.No.319 of 2022 on the file of respondent No.2, dated 03.03.2023. Review I.A.No.3 of 2025 is filed seeking to review the order dated 30.07.2024 passed in W.P.No.18934 of 2024. A Division Bench of this Court by order dated 30.07.2024 dismissed W.P.No.18934 of 2024. The relevant portion of the said order is as follows: “... 6. It is well settled proposition of law that the expression ‘sufficient cause’ should receive liberal consideration so as to advance the cause of justice. However, aforesaid legal principle does not dispense with the requirement of at least furnishing reasons. 7. In the instant case, from a perusal of the application filed by the petitioner before the Debts	

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		Recovery Appellate Tribunal, it is evident that the petitioner has miserably failed to show any cause much less sufficient cause for filing an appeal beyond the period of limitation. 8. Instead of explaining the delay caused in filing the appeal, the petitioner in para 3 of the application has made an incorrect statement of fact that the appeal is barred by only 5 days whereas the appeal is admittedly barred by 311 days. The order dated 11.03.2024 passed by the Debts Recovery Appellate Tribunal neither suffers from any jurisdictional infirmity nor any error apparent on the face of the record warranting interference of this Court in exercise of extraordinary jurisdiction under Article 226 of the Constitution of India.” Learned counsel appearing on behalf of the review petitioner contended that sufficient explanation was offered in the affidavit filed before the Debt Recovery Appellate Tribunal and invited the attention of this Court to the affidavit annexed at page Nos.84 to 87 of the paper book. It is pertinent to take note that the application for condonation of delay was extracted in the writ petition order. Learned counsel for review petitioner tried to impress upon the Court that the writ petition was dismissed on the ground that an incorrect statement of fact that the appeal is barred by only five days was taken into consideration, while dismissing the writ petition. In the application for condonation of delay, at paragraph Nos.2 and 3, it is reflected that the appeal is being filed with a delay of five days. This fact was pointed out to the learned counsel for review petitioner. When this Court queried the learned counsel as to the scope of review jurisdiction, learned counsel instead of pointing out the mistake or error apparent on the face of the record addressed on merits of the case. Such submissions on merits cannot be considered in review jurisdiction. The Hon’ble Apex Court in <i>Perry Kansagra v. Smriti</i>	

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		Madan Kansarga reported in (2019) 20 SC 753 held as follows: “...15.1. In <i>Inderchand Jain</i> [<i>Inderchand Jain v. Motilal</i>, (2009) 14 SCC 663 : (2009) 5 SCC (Civ) 461] it was observed in paras 10, 11 and 33 as under: (SCC pp. 669 & 675) “10. It is beyond any doubt or dispute that the review court does not sit in appeal over its own order. A rehearing of the matter is impermissible in law. It constitutes an exception to the general rule that once a judgment is signed or pronounced, it should not be altered. It is also trite that exercise of inherent jurisdiction is not invoked for reviewing any order. 11. Review is not appeal in disguise. In <i>Lily Thomas v. Union of India</i> [<i>Lily Thomas v. Union of India</i>, (2000) 6 SCC 224 : 2000 SCC (Cri) 1056] this Court held: (SCC p. 251, para 56) ‘56. It follows, therefore, that the power of review can be exercised for correction of a mistake but not to substitute a view. Such powers can be exercised within the limits of the statute dealing with the exercise of power. The review cannot be treated like an appeal in disguise.’ 33. The High Court had rightly noticed the review jurisdiction of the court, which is as under: The law on the subject—exercise of power of review, as propounded by the Apex Court and various other High Courts may be summarised as hereunder: (i) Review proceedings are not by way of appeal and have to be strictly confined to the scope and ambit of Order 47 Rule 1 CPC. (ii) Power of review may be exercised when some mistake or error apparent on the fact of record is found. But error on the face of record must be such an error which must strike one on mere looking at the record and would not require any long-drawn process of reasoning on the points where there may conceivably be two opinions. (iii) Power of review may not be exercised on the ground that the decision was erroneous on merits. (iv) Power of review can also be exercised for any sufficient reason which is wide enough to include a misconception of fact or law by a court or even an advocate. (v) An application for review may be necessitated by	

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		way of invoking the doctrine <i>actus curiae neminem gravabit.</i>’ ...” The Hon’ble Apex Court in S. Murali Sundaram v. Jothibai Kannan and Others reported in (2023) 13 SCC 515 reiterated the principles laid down in Perry Kansagra (supra). While exercising the power of review, this Court cannot convert the review proceedings into that of an appeal. The Court has to confine itself to the scope and ambit of the power of review. Learned counsels adventure to impress upon the Court on merits of the case, cannot be considered in the light of the law laid down by the Hon’ble Apex Court. We do not find any mistake or error apparent on the face of the record, nor discovery of any new fact, no case is made out for exercising the review jurisdiction. Review applications are devoid of merits. Accordingly, I.A.No.3 of 2025 (Review Petition) is dismissed. In view of dismissal of I.A.No.3 of 2025 (Review Petition), I.A.No.2 of 2025 stands dismissed. _____ ACJ _____ JAK, J KH	