

HON'BLE SRI JUSTICE K. LAKSHMAN

Rev.I.A.No.2 OF 2025

IN

WRIT PETITION No.24947 OF 2022

AND

Rev.I.A.No.4 OF 2025

IN

WRIT PETITION No.31861 OF 2024

COMMON ORDER:

Heard Sri Mandala Nagendra Babu, learned counsel for the petitioner herein, Sri E. Venkata Siddhartha, learned counsel appearing for 5th respondent and Sri Pasham Mohith, learned standing counsel appearing for respondent Nos.3 and 4.

2. These two petitions are filed to review the order dated 25.11.2024 in W.P.No.24947 of 2022 and W.P.No.31861 of 2024 passed by this Court.

(The parties in both the review petitions are same.)

3. Perusal of the record would reveal that 5th respondent has filed writ petition W.P.No.24947 of 2022 to declare the impugned proceedings dated 04.04.2022 issued by 2nd respondent therein and also consequential proceedings dated 24.05.2024, as illegal.

4. The petitioner herein has filed W.P.No.31861 of 2024 challenging the proceedings dated 24.05.2022 issued by 3rd respondent

therein, as illegal. On consideration of rival submissions, vide common order dated 25.11.2024, this Court dismissed W.P.No.31861 of 2024 and allowed W.P.No.24947 of 2022 in part setting aside the impugned order dated 24.05.2022 issued by 2nd respondent.

5. This Court also directed the petitioner in W.P.No.24947 of 2024 to proceed with the construction strictly in accordance with building permit order dated 28.11.2021 and letter of approval for commencement of work dated 21.12.2021, failing which, liberty is granted to respondent Nos.2 to 4 to take action against the petitioner in accordance with law. At the same time, the petitioner shall not claim equity. This order is subject to result of a suit in O.S.No.453 of 2022 pending on the file of I Additional Junior Civil Judge, Warangal, This Court has also granted liberty to both the petitioner and 5th respondent to raise all the grounds/contentions which they have raised in O.S.No.453 of 2022.

6. Learned counsel for the petitioner would submit that the suit O.S.No.453 of 2022 was transferred from I Additional Junior Civil Judge, Warangal, to I Addl. Junior Civil Judge-cum-I Addl. Judicial Magistrate of First Class , Hanumakonda and it was re-numbered as O.S.No.3042 of 2022. An Interlocutory Application filed by him is

pending. Due to transfer of the case, notices are not served on the defendants including 5th respondent herein. Learned trial Court is not disposing of the said Interlocutory Application filed seeking interim injunction. The original owner of the subject property has no title to execute sale deed and transfer the property. Municipality has to consider suppression and misrepresentation of facts in terms of Section 176 (9) of Telangana Municipalities Act, 2019. Review petitioner has filed affidavit of Sri Kandukuri Naveen Kumar, the vendor of the petitioner and 5th respondent along with the present writ petition. Therefore, according to the petitioner, the said aspects are not considered by this Court in the common order dated 25.11.2024, and the said order has to be reviewed.

7. Sri Pasham Mohith, learned counsel appearing for respondent Nos.2 to 4 and Sri E.Venkat Siddharth, learned counsel appearing for 5th respondent would contend that on the aforesaid grounds, the review petition is not maintainable. The petitioner has also raised the aforesaid grounds in the writ petition and this Court considered the same in the common order. Therefore, he cannot re-agitate the said grounds in a review petition.

8. It is relevant to note that the Apex Court has laid down certain principles with regard to the scope of review in the following judgments;-

a. In **Common Cause v. Union of India**¹, the Apex Court held that the ground/point which was not argued in writ petition is deemed it was given up.

b. In **N. Anantha Reddy v. Anshu Kathuria**², the Apex Court held re-hearing in review application is impermissible.

c. In **Kamlesh Verma v. Mayavati**³, the Apex Court held that mistake apparent on the face of record itself is a ground to review an order.

d. In **Patel Narshi Thakershi v. Pradyauman Singhji Arjunsinghji**⁴, the Apex Court held that power to review is not inherent power and it must be conferred by law either specifically or by necessary implication.

e. In **Sow Chandra Kante v. Sheikh Habib**⁵, the Apex Court observed as follows:

¹. (2004) 5 SCC 222

². (2013) 15 SCC 534

³. (2013) 8 SCC 320

⁴. AIR 1970 SC 1273

⁵. (1975) 1 SCC 674

“A review of a judgment is a serious step and reluctant resort to it is proper only where a glaring omission or patent mistake or like grave error has crept in earlier by judicial fallibility. ... The present stage is not a virgin ground but review of an earlier order which has the normal feature of finality.”

f. In **Parsion Devi v. Sumitri Devi**⁶, the Apex Court held that an error is not self-evident and the one that has to be detected by the process of reasoning, cannot be described as an error apparent on the face of record for the Court to exercise the powers of review.

g. On consideration of several decisions on review jurisdiction, in **Kamlesh Verma**⁵, the Apex Court summarized the principles for exercising review jurisdiction and the same are as follows:

“20. Thus, in view of the above, the following grounds of review are maintainable as stipulated by the statute:

20.1. When the review will be maintainable:

- (i) Discovery of new and important matter or evidence which, after the exercise of due diligence, was not within knowledge

⁶. (1997) 8 SCC 715

of the petitioner or could not be produced by him;

(ii) Mistake or error apparent on the face of the record;

(iii) Any other sufficient reason.

The words “any other sufficient reason” has been interpreted in *Chajju Ram v. Neki* [AIR 1922 PC 112], and approved by this Court in *Moran Mar Basselios Catholicos v. Most Rev. Mar Poulose Athanasius* [1955 SCR 520] to mean “a reason sufficient on grounds at least analogous to those specified in the rule”. The same principles have been reiterated in *Union of India v. Sandur Manganese & Iron Ores Ltd.* [(2013) 8 SCC 337].

20.2. When the review will not be maintainable:—

- (i) A repetition of old and overruled argument is not enough to reopen concluded adjudications.
- (ii) Minor mistakes of inconsequential import.
- (iii) Review proceedings cannot be equated with the original hearing of the case.
- (iv) Review is not maintainable unless the material error, manifest on the face of the order, undermines its soundness or results in miscarriage of justice.

- (v) A review is by no means an appeal in disguise whereby an erroneous decision is re-heard and corrected but lies only for patent error.
- (vi) The mere possibility of two views on the subject cannot be a ground for review.
- (vii) The error apparent on the face of the record should not be an error which has to be fished out and searched.
- (viii) The appreciation of evidence on record is fully within the domain of the appellate court, it cannot be permitted to be advanced in the review petition.
- (ix) Review is not maintainable when the same relief sought at the time of arguing the main matter had been negated.”

h. In **Shivdeo Singh v. State of Punjab**⁷, the Apex Court held that there is nothing in Article - 226 of the Constitution of India to preclude the High Court from exercising the power of review which inheres in every Court of plenary jurisdiction to prevent miscarriage of justice or to correct grave and palpable errors committed by it. But, there are definitive limits to the exercise of the power of review. The power of review may be exercised on the discovery of new and important matter or evidence which, after the exercise of due diligence

⁷. (1979) 4 SCC 389

was not within the knowledge of the person seeking the review or could not be produced by him at the time when the order was made. It may be exercised where some mistake or error apparent on the face of the record is found. It may also be exercised on any analogous ground. But, it may not be exercised on the ground that the decision was erroneous on merits. That would be the province of a Court of appeal. A power of review is not to be confused with appellate power which may enable an appellate Court to correct all manner of errors committed by the subordinate Court.”

9. As per Section - 114 of the Civil Procedure Code, 1908 (for short ‘CPC’) and Order - XLVII of CPC, a review application would be maintainable on the following grounds:

- i. discovery of new and important matters or evidence which, after exercise of due diligence, were not within the knowledge of the applicant or could not be produced by him when the decree was passed or the order made;
- ii. on account of some mistake or error apparent on the face of the record; or
- iii. for any other sufficient reason.

10. Considering the same and also referring to its earlier judgments, in **S. Madhusudhan Reddy v. V. Narayana Reddy**⁸, the Apex Court held that the Court's jurisdiction of review is not the same as that of an appeal. A judgment can be open to review if there is a mistake or an error apparent on the face of the record, but an error that has to be detected by a process of reasoning, cannot be described as an error apparent on the face of the record for the Court to exercise its powers of review under Order - XLVII, Rule - 1 of CPC. In the guise of exercising powers of review, the Court can correct a mistake but not substitute the view taken earlier merely because there is a possibility of taking two views in a matter. A judgment may also be open to review when any new or important matter of evidence has emerged after passing of the judgment, subject to the condition that such evidence was not within the knowledge of the party seeking review or could not be produced by it when the order was made despite undertaking an exercise of due diligence. There is a clear distinction between an erroneous decision as against an error apparent on the face of the record. An erroneous decision can be corrected by the Apex Court, however, an error apparent on the face of the record

⁸. 2022 SCC OnLine SC 1034

can only be corrected by exercising review jurisdiction. For reviewing of a judgment as described in Order - XLVII, Rule - 1 of CPC, i.e., for any other sufficient reason, which phrase has been explained to mean “a reason sufficient on grounds, at least analogous to those specified in the rule as held by the Apex Court in **Chajju Ram v. Neki Ram**⁹ and **Moran Mar Basselios Catholicos v. Most Rev. Mar Poulouse Athanasiu**¹⁰.

11. As rightly contended by the respondents, this Court has already considered pendency of O.S.No.453 of 2022 filed on the file of I Additional Junior Civil Judge, Warangal, a suit for declaration and recovery of possession and permanent injunction. In the said suit, notice was ordered by the trial Court. Therefore, the petitioner has to serve notice on the defendants and seek disposal of the Interlocutory Application filed by him in the said suit. There is no dispute that the suit was transferred from the I Additional Junior Civil Judge, Warangal to I Addl. Junior Civil Judge-cum-I Addl. Judicial Magistrate of First Class, Hanumakonda and it was re-numbered as O.S.No.3042 of 2022. Therefore, the petitioner has to serve notice on the defendants including 5th respondent herein and seek for disposal of

⁹. AIR 1922 PC 112

¹⁰. 1955 SCR 520

the Interlocutory Application, pendency of suit, Interlocutory Application and transfer of the same from one Court to other is not a ground to review the order. The petitioner has not filed the third party affidavit, along with the said writ petition. On consideration of the said aspects only, this Court granted opportunity to the 5th respondent to raise all the grounds which they have raised in the present writ petition and it is for the trial Court to consider the material available and merits without being influenced by any of the observations made by this Court in the common order.

12. In the light of the aforesaid principle laid down by the Apex Court, as discussed supra, the petitioner herein failed to make out any case to review the order dated 25.11.2024 in W.P.Nos.24947 and 31861 of 2022. Therefore, the present review applications are liable to be dismissed and are dismissed.

Consequently, miscellaneous petitions, if any, pending in these review petitions shall stand dismissed.

Date: 20.02.2025.
Vvr

K. LAKSHMAN, J