

THE HON'BLE JUSTICE MOUSHUMI BHATTACHARYA
AND
THE HON'BLE JUSTICE B.R.MADHUSUDHAN RAO
REVIEW I.A.NO.2 OF 2025 IN WRIT PETITION NO.12009 OF
2019

ORDER: (per Hon'ble Justice B.R.Madhusudhan Rao)

The present Review Petition is filed under Order 47 Rule 1 of CPC r/w Rule 24 of Writ Proceeding Rules. Petitioners are the Writ Petitioners. Respondent No.1 is the Debt Recovery Tribunal-II represented by its Registrar and respondent No.2 is the Life Insurance Corporation of India represented by its Secretary, Hyderabad.

GROUND OF REVIEW:

2.1. There is an error apparent on the face of the record in the order under review that in Para 27 of the Order, a finding is recorded that "we are of the view that the Writ Petition is not maintainable", and thereafter proceeded to hold that there is no perversity or illegality in the impugned order of the DRT and hence, we are not inclined to interfere in the matter. When once the Court has recorded a finding that Writ Petition is not maintainable, question of deciding the Writ Petition on merits about the

correctness of the judgment of the DRT does not arise and the Writ petitioners ought to have been relegated to the appellate remedy under Section 20 of the RDDB Act, 1993, warranting exercise of the review jurisdiction.

2.2. A contract of insurance is between the insurance company and the policy holder. Any disputes between the insurance company and policy holder would not fall within the scope and ambit of “debt” defined under Section 2(g) of the RDDB Act, 1993. The relationship between the creditor and the debtor is totally different from the relationship between insurance company and the policy holder. Though LIC is a Financial Institution under the RDDB Act, the claim for non-payment of the insurance policy amount would not constitute a debt, within the meaning of the Act. Thus, there is a patent error apparent on the face of the record warranting exercise of review jurisdiction and setting aside the order under review.

2.3. Section 72 of the Contract Act is found to be an unjust enrichment. The present claim of LIC is about the excess payment made towards gratuity of retaining employees. Hence, application of Section 72 of the Contract Act is totally erroneous and unsustainable. The Division Bench has not referred to the written submissions/written note of the petitioners and the case law cited

therein and thus non-consideration of the grounds raised in the Writ Petition has amounted to not only an error apparent on the face of the record but also serious miscarriage of justice.

2.4. The learned Division Bench has lost sight of the legal proposition that there is nothing like admission in respect of matters on which LIC has no right in law. Unless, the statute confers jurisdiction, neither consent nor admission of acquiescence, does not enable the Court to exercise jurisdiction (See Jagmittar Sain Bhagat and Others Vs. Director, Health Services, Haryana and Others¹, and the order under review is vitiated by patent error of law and jurisdiction. The Division Bench has unnecessarily concentrated on the non-compliance of the interlocutory order in the Writ Petition relating to deposit of 50% of the amount covered by the DRT. If there is no stay in the Writ Petition, LIC could have executed the judgment of the DRT. However, those circumstances cannot in any manner, affect or influence the adjudication of the main Writ Petition, and prayed to review the order in WP.No.12009 of 2019 dated 13.06.2025.

3. Learned counsel for respondent No.2 submits that the petitioners have chosen the forum before the High Court by filing the Writ Petition and they were self-restrained not to exercise the

¹ (2013) 10 SCC 136

alternate remedy, and elected to keep the Writ Petition pending. Petitioners cannot go back and say that the order under review is vitiated by error apparent on the face of the record. There is no error apparent on the face of the record and Review I.A. deserves to be dismissed.

4. Heard learned Senior Counsel and counsel for respondent No.2, perused the material.

5. Now the point for consideration is : Whether the petitioners have made out any case for review of the order in WP No.12009 of 2019 dated 13.06.2025?

6. Before discussing the contentions raised by the learned Senior Counsel, it is apt to refer to the latest judgment of the Supreme Court in Malleeswari Vs. K.Suguna and another², wherein, the Supreme Court has discussed the power of Review with limitations. Relevant paras are Para Nos.15, 16 and 17, which reads as under:

15. The review jurisdiction cannot be assumed unless it is conferred by law on the authority or the Court. Section 114 and Order 47, Rule 1 of CPC deal with the power of review of the courts. The power of review is different from appellate power and is subject to the following limitations to maintain the finality of judicial decisions:

² 2025 INSC 1080

15.1 The review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of Order 47 Rule 1 of CPC (Meera Bhanja Vs. Nirmala Kumari Choudhury, (1995) 1 SCC 170).

15.2. Review is not to be confused with appellate powers, which may enable an appellate court to correct all manner of errors committed by the subordinate court (Aribam Tuleswar Sharma V. Aribam Pishak Sharma, (1979) 4 SCC 389).

15.3. In exercise of the jurisdiction under Order 47 Rule 1 of CPC, it is not permissible for an erroneous decision to be reheard and corrected. A review petition, it must be remembered, has a limited purpose and cannot be allowed to be an appeal in disguise (Parsion Devi V. Sumitri Devi, (1997) 8 SCC 715).

15.4. The power of review can be exercised for the correction of a mistake, but not to substitute a view. Such powers can be exercised within the limits specified in the statute governing the exercise of power (Lily Thomas V. Union of India, (2000) 6 SCC 224).

15.5. The review court does not sit in appeal over its own order. A rehearing of the matter is impermissible. It constitutes an exception to the general rule that once a judgment is signed or pronounced, it should not be altered (Inderchand Jain V. Motilal, (2009) 14 SCC 663). Hence, it is invoked only to prevent a miscarriage of justice or to correct grave and palpable errors (Shivdev Singh V. State of Punjab, AIR (1963) SC 1909).

16. To wit, through a review application, an apparent error of fact or law is intimated to the court, but no extra reasoning is undertaken to explain the said error. The intimation of error at the first blush enables the court to correct apparent errors

instead of the higher court correcting such errors. At both the above stages, detailed reasoning is not warranted.

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 (Hari Vishnu Kamath V. Syed Ahmad Ishaque, (1955) 1 SCR 1104). Such an error is a patent error and not a mere wrong decision (T.C.Basappa V. T.Nagappa, 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 (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 (Chhajju Ram V. Neki, 1922 SCC OnLine PC 11 and approved in Moran Mar Basselios Catholicos V. Mar Poulouse Athanasius, AIR (1954) SC 526).

7. Learned Senior Counsel for the respondents submits that no finding, reasoning are given while disposing of WP.No.12009 of 2019 in consonance with Order 20 Rule 5 of CPC.

8. It is appropriate to prepare a table to answer the contentions raised by the learned Senior Counsel which reads as under:

1.	When the Court has recorded a finding that Writ Petition is not maintainable and deciding the same on merits about the correctness of the judgment of the DRT does not arise and the petitioners ought to be relegated to the Appellate remedy under Section 20 of the RDDB Act, 1993.	It is the submission of the learned Senior Counsel in the Writ Petition that DRT has recorded a perverse findings since there is no quantification and itemization of the claim amount by L.I.C., that alternate remedy is not a bar for maintaining a Writ Petition (See Para No.5.2 and 5.3 of the Writ Order). Petitioners cannot turn around and say that they ought to have been relegated to the Appellate Authority under Section 20 of the RDDB Act. We have mentioned in Para No.8 of the order in W.P. when Section 20 of the RDDB Act was given retrospective effect from and obtaining stay by the petitioners in Para No.9.1.
2.	Dispute between the Insurance Company and Policy holder would not fall within the scope of 'debt' defined under Section 2(g) of the RDDB Act.	In Para 10 of the Order, we have held that Life Insurance Corporation falls under the Financial Institutions, within the meaning of Section 2 (h)(i) of the Act and also held in para No.13 of the order that each transaction on the running account represents a debt incurred by the party receiving the services, and it

		falls under Section 2 (9) of the Act, 1993.
3.	Application of Section 72 of the Contract Act is totally erroneous and unsustainable.	It is observed in Para 14 of the Writ Order that the debt falls within the definition of section 72 of the Contract Act and further held in Para 15 that LIC has rightly invoked the jurisdiction of the Tribunal.
4.	Division Bench has unnecessarily concentrated on the non-complicate of the interlocutory order in the Writ Petition relating to deposit of 50% of the amount covered by the judgment of the DRT.	We did not express any opinion with regard to non-compliance of 50% of the deposited amount. A paragraph is mentioned in the Writ order as the Supreme Court in Special Leave to Appeal, Civil No.15177 of 2020, dated 02.02.2024 requested the High Court to dispose of the Writ Petition as expeditiously as possible and it cannot be said that we have unnecessarily concentrated on the non-compliance with regard to the deposit of 50% of the amount covered by the judgment of the DRT. (See Para No.9.3 of the Writ Order)

9.1. In Jagmittar Sain Bhagat's case¹, the Supreme Court observed that "Indisputably, it is a settled legal proposition that conferment of jurisdiction is a legislative function and it can neither be conferred with the consent of the parties nor by a superior court, and if the court passes a decree having no

jurisdiction over the matter, it would amount to nullity as the matter goes to the root of the cause. Such an issue can be raised at any stage of the proceedings. The finding of a court or tribunal becomes irrelevant and unenforceable/inexecutable once the forum is found to have no jurisdiction. Similarly, if a court/tribunal inherently lacks jurisdiction, acquiescence of party equally should not be permitted to perpetrate and perpetuate defeating of the legislative animation. The court cannot derive jurisdiction apart from the statute. In such eventuality the doctrine of waiver also does not apply. (Vide *United Commercial Bank Ltd. v. Workmen*, AIR 1951 SC 230, *Nai Bahu v. Lala Ramnarayan*, (1978) 1 SCC 58 : *AIR 1978 SC 22*, *Natraj Studios (P) Ltd. v. Navrang Studios*, (1981) 1 SCC 523, and *Kondiba Dagadu Kadam v. Savitribai Sopan Gujar*, (1999) 3 SCC 722.

9.2. In the above said decision, the Supreme Court held that Government Servant does not fall under the definition of a “Consumer” as defined under Section 2(1)(d)(ii) of the Consumer Protection Act. The appropriate forum for Government Servant for his redressal of any of his grievance may be the State Administrative Tribunal, if any, or the Civil Court. The above decision is not applicable to the case on hand as the facts differ.

10. In order to appreciate the scope of a review, Section 114 of CPC has to be read, but this Section does not even adumbrate the ambit of interference expected of the Court. The parameters are prescribed in Order 47 of the CPC and it must be exercised within the frame work.

11. The scope of review is limited to reviewing the judgment for newly discovered evidence, mistakes or errors apparent on the face of the record, and any other sufficient reasons analogous to the first two grounds. Review is not an Appeal in disguise, the Court cannot re-examine the merits of the case or correct erroneous decisions but only obvious mistakes that are self evident and do not require extensive reasoning. The power of review is narrow and confined one meant for correcting clerical and undeniable errors, not for giving a different interpretation.

12. The order in WP No.12009 of 2019 dated 13.06.2025 speaks for itself that the contentions raised by the petitioner's counsel are answered by giving cogent reasoning in consonance with Order 20 Rule 5 of the CPC.

13. We have decided the maintainability of the Writ Petition and also the correctness of the judgment of the DRT in the Writ Order.

14. Synopsis filed by the petitioners along with decisions were considered while disposing of the Writ Petition, it cannot be said that written notes are not considered.

15. In view of the decision of the Supreme Court in Malleeswari case², the order under review has not adverted to any other error apparent on the face of the record, and it cannot be said that error apparent on the face of the record is made out and vitiated by patent error of law and jurisdiction. The grounds raised by the learned Senior Counsel in review petition do not fall within the parameters of Order 47 of CPC, or under Section 114 of CPC. Petitioners have not made out any case for review of the order in WP No.12009 of 2019. Application deserves no consideration, and the same is liable to be dismissed and is accordingly dismissed.

16. Review IA.No.2 of 2025 is dismissed.

Miscellaneous Petition/s if any, shall stands closed.

MOUSHUMI BHATTACHARYA, J

B.R.MADHUSUDHAN RAO, J

14th October, 2025.
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