GAHC010113182026

2026:GAU-AS:16051

# THE GAUHATI HIGH COURT
## (HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

**Case No. : Review.Pet./97/2026**

M/S ASSAM (TRADE) AGENCIES
S.R.C.B. ROAD, FANCY BAZAR, GUWAHATI - 781001,
KAMRUP (M), ASSAM,
REPRESENTED BY ITS PARTNER, YASHPAL CHACHRA.

**VERSUS**

SUJAUDDIN AHMED
SON OF LATE SAADUDDIN AHMED,
RESIDENT OF S.S. ROAD, LAKHTOKIA,
GUWAHATI - 781001, KAMRUP (M), ASSAM.

**BEFORE**
**HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA**

For the Petitioner : Ms. B. S. Goyal, Advocate

For the Respondent : Mr. A. Tewari, Advocate

Date of Hearing : **20.08.2026**

Date of Judgment : **03.11.2026**

**JUDGMENT & ORDER**

**1.** Heard Ms. B. S. Goyal, the learned counsel for the review petitioner. Also heard Mr. A. Tewari, the learned counsel for the respondent.

**2.** This review petition under Order XLVII Rule 1 read with Section 114 of the Code of Civil Procedure, 1908 has been filed by the petitioners, namely, M/s Assam (Trade) Agencies, seeking review of the judgment and order passed by this Court on 04.05.2026 in Civil Revision Petition No. 97/2019.

**3.** The facts relevant for consideration of this review petition, in brief, are that the present respondent, namely, Sujauddin Ahmed, had filed a title suit against the present petitioner in the Court of learned Munsiff No. 2, Kamrup (Metro) at Guwahati, seeking eviction of the present petitioner from the suit premises on the basis of bona fide requirement of the suit premises by the present respondent for starting a business there. The said suit was registered as Title Suit No. 185/2013. The suit was contested by the present petitioner. However, the said suit was decreed by the Trial Court by its judgment dated 25.11.2016 by holding that the suit premises is required bona fide by the present respondent.

**4.** Being aggrieved by the judgment and decree of the Trial Court, the present petitioner preferred an appeal under Section 96 read with Order XLI of the Code of Civil Procedure, 1908 before the Court of learned Civil Judge (Senior Division) No. 3, Kamrup (Metro). The said appeal was registered as Title Appeal No. 120/2016. The said appeal was dismissed by the Appellate Court by its judgment dated 28$^{th}$ June, 2019 and the decree passed by the Trial Court was

upheld.

**5.** Being aggrieved by the judgment of the first appellate Court, the present petitioner approached this Court by filing an application under Section 115 of the Code of Civil Procedure, 1908. Said revision petition was registered as CRP No. 97/2019. However, this Court by its judgment dated 04.05.2026 had dismissed the revision petition filed by the present petitioner and upheld the judgment and decree passed by the appellate Court by holding that the judgment of the first appellate Court cannot be regarded as perverse and the said Court also does not appear to have committed any jurisdictional error warranting invoking of the powers of this Court under Section 115 of the Code of Civil Procedure, 1908.

**6.** Now, the instant review application has been filed by the petitioner seeking review of the aforesaid judgment on following grounds. The said grounds are specifically mentioned in paragraph No. 23 of the instant review application:

**A.** Because material admission of the plaintiff touching upon the issue of bona fide requirement escaped consideration.

**B.** Because absence of any preparation or concrete steps for commencement of business had direct bearing on genuineness of alleged requirement.

**C.** Because the plaintiff's admission regarding monetary demand and enhancement dispute were relevant circumstances affecting the issues of bona fide requirement.

**D.** Because non-mention of bona fide requirement in contemporaneous documents and earlier proceedings was relevant circumstances requiring

consideration.

**E.** Because the defence case regarding coercive enhancement of rent and retaliatory eviction proceedings was not examined in its proper perspective.

**F.** Because non-consideration of material evidence apparent on record has resulted in grave prejudice and miscarriage of justice.

**G.** Because the judgment under review therefore warrant reconsideration in exercise of review jurisdiction.

**7.** Though, seven grounds as stated in paragraph No. 23 (A) to (G) have been specifically mentioned in the review application by the present petitioner, however, during oral argumentat the time of hearing of instant review petition before this Court, Ms. B. S. Goyal, the learned counsel for the review petitioner, has emphasized mainly on one ground, that is, the Trial Court as well as the First Appellate Court and this Court, have failed to take into consideration that the suit filed by the respondent is barred by non-joinder of necessary parties. She submits that in that respect, the Trial Court as well as the First Appellate Court have not considered the material evidence, namely, Exhibit Nos.-Z20 to Z47, which are the electricity bills in respect of the suit premises, and which indicates that the electricity charges in respect of the suit premises were collected from the present petitioner by the brother of the present respondent, namely, Salauddin Ahmed.

**8.** She submits that the present respondent, as plaintiff in the suit, has failed to produce any deed of partition between his brother and himself in respect of the suit property, and as such, Md. Salauddin Ahmed was a necessary

party to the suit, and all the Courts have failed to take this vital aspect into consideration. As such, she submits that the suit is barred by non-joinder of necessary parties, and the said aspect is required to be reconsidered after reviewing the judgment passed by this Court in CRP No. 97/2019 on 04.05.2026.

**9.** The learned counsel for the review petitioner has also submitted that the main bone of contention between the parties is with regard to the increase in rent of the suit premises. She submits that whereas the respondent has spiked the rent exorbitantly, the present petitioner is still ready to give the enhanced rent at the rate of 10% increase over the previous rent, and same dispute may be amicably settled between them. She, however, submits that since the material evidence in the form of Exhibit-Z20 to Z47 were not at all considered by either the appellate Court or the trial Court or by the revisional Court, it is a fit case to review the judgment passed in civil revision petition by this Court.

**10.** On the other hand, Mr. A. Tewari, the learned counsel for the respondent, has submitted that this review application has been filed by the petitioner only with a *mala fide* intention of delaying the execution of the decree which has been passed in favour of the respondent. He submits that the petitioner has been able to protract the litigation from the year 2013 till this date on one or another pretext. He submits that no ground for review of the judgment dated 04.05.2026, passed by this Court in CRP No. 97/2019, has been made out by the petitioner.

**11.** He submits that the property in which the suit premises is situated has been amicably partitioned between the respondent and his brother, and this fact

is known to the present petitioner. As such, he also used to deposit rent in respect of suit premises in the name of present respondent only. He submits that the brother of the respondent used to collect the electricity charges as the electric meter was in the common name; however, that does not affect the merit of the respondent's suit, and said aspect has been taken into consideration by the Trial Court.

**12.** He submits that bare perusal of rent deposit challans, which has been exhibited by the present petitioner before the trial Court, it would be clear that all the rents in respect of the suit premises were deposited by the present petitioner in the name of the respondent, Sri Sujauddin Ahmed only, and as such, the question of non-joinder of necessary party loses its relevance.

**13.** The learned counsel for the respondent, further submits that the fact that the present petitioner is the tenant in respect of the suit premises under the land-lordship of the present respondent has been asserted by the present petitioner himself in a title suit filed by him before the Court of learned Munsiff No. 2 at Guwahati, which was registered as Title Suit No. 462/2012. He submits that the said suit was filed by the present petitioner against the present respondent only, and wherein he sought relief against eviction from the suit premises; and said suit was decreed by the trial Court by its judgment dated 29.08.2015. He submits that in the said judgment, the Trial Court, in paragraph No. 10 of the said judgment, has acknowledged that the fact that the present petitioner had filed the said suit seeking declaration to the effect that he is a bona fide tenant against the present respondent, and he cannot be evicted therefrom without following due procedure of law, and said suit was accordingly decreed also.

**14.** The learned counsel for the respondent submits that once the petitioner has accepted the present respondent as his landlord in the suit filed by himself before the trial Court, he cannot take a contrary stand, that too in a review petition, only with a motive of delaying the execution of the decree.

**15.** The learned counsel for the respondent has submitted that the trial Court, while deciding Issue No. 2 as to whether the suit is bad for non-joinder of necessary parties, has discussed the relevant materials on record and come to the finding that since the present respondent is admittedly the landlord of the tenanted premises, hence the suit is not bad for non-joinder of necessary parties. He submits that the said finding has not been challenged in the appeal preferred by the present petitioner against the judgment of the trial Court before the first appellate Court, and no such ground as regards non-joinder of necessary parties has been taken in the memo of appeal in Title Appeal No. 120/2016, which was filed by the present petitioner on being aggrieved with the judgment of the trial Court.

**16.** He further submits that even before this Court, while filing the revision petition, that is, Civil Revision Petition No. 97/2019, no ground as regards non-joinder of necessary parties was taken by the present petitioner. As such, he submitted that only with a view to delay the execution of the decree, the petitioner has filed this review application without there being any ground for reviewing the judgment and order dated 04.05.2026 passed in CRP No. 97/2019.

**17.** The learned counsel for the respondent has submitted that a review against a judgment of a Civil Court is maintainable only on specific grounds as provided for in Order XLVII Rule 1 of the Code of Civil Procedure. He submits

that the first ground, that is, discovery of new and important matter or evidence which, after exercise of due diligence, was not within the knowledge of the petitioner or could be produced by it at the time when the decree was passed, is not evenpleaded in this case. He submits that neither there is any apparent error on the face of the judgment under review, or for any other sufficient cause. As such, he submits that this review petition is not maintainable. He submits that in the guise of exercising review jurisdiction, a Court cannot sit on appeal over its own judgment and take a different view from the view taken by the said Court earlier.

**18.** In support of his submissions, the learned counsel for the respondent has cited following ruling:

***a) S. Madhusudhan Reddy Vs. V. Narayana Reddy and Ors***., reported in ***(2022) 17 SCC 255***.

***b) Smti. Renu Devi Kucheria (Oswal) and Ors. Vs. Smti. Taravini Devi Tiwari and 7 Ors.***, (judgment dated 25.08.2017 in Review Petition No. 132 of 2017).

**19.** I have considered the submissions made by the learned counsel for both sides and have gone through the materials available on record, including the judgment of which review is sought for in this review petition. I have also gone through the judgments cited by learned counsel for the parties in support of their respective submissions.

**20.** The point to be determined in this review petition is as to whether the review petitioner has been able to make out a case for review of the judgment and order dated 04.05.2026 passed in CRP No. 97/2019, whereby the said Civil

Revision Petition was dismissed by this Court.

**21.** For the sake of convenience, the provisions contained in Section 114 as well as Order XLVII Rule 1 of the Code of Civil Procedure, 1908 are reproduced herein below:

> "***114. Review. -***
>
> *Subject as aforesaid, any person considering himself aggrieved-*
>
> *(a) by a decree or order from which an appeal is allowed by this Code, but from which no appeal has been preferred,*
>
> *(b) by a decree or order from which no appeal is allowed by this Code, or*
>
> *(c) by a decision on a reference from a Court of Small Causes, may apply for a review of judgment to the Court which passed the decree or made the order, and the Court may make such order thereon as it thinks fit.*
>
> ***ORDER XLVII***
> ***REVIEW***
>
> ***1.*** *Application for review of judgment. —*
>
> ***(1)*** *Any person considering himself aggrieved—*
>
> *(a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred,*
>
> *(b) by a decree or order from which no appeal is allowed, or*
>
> *(c) by a decision on a reference from a Court of Small Causes,*
> *and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the Court which passed the decree or made the order."*

**22.** While making observation on the scope of review jurisdiction of a Civil Court, the Supreme Court of India has observed in the case of ***S. Madhusudhan***

***Reddy Vs. V. Narayana Reddy and Ors.*** (supra) as follows:

> "***33.*** *As can be seen from the above exposition of law, it has been consistently held by this Court in several judicial pronouncements 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 47 Rule 1 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 superior court, however an error apparent on the face of the record can only be corrected by exercising review jurisdiction. Yet another circumstance referred to in Order 47 Rule 1 for reviewing a judgment has been described as "for any other sufficient reason". The said phrase has been explained to mean "a reason sufficient on grounds, at least analogous to those specified in the rule" (refer : Chhajju Ram v. Neki [Chhajju Ram v. Neki, 1922 SCC OnLine PC 11 : AIR 1922 PC 112] and Moran Mar Basselios Catholicos v. Mar Poulose Athanasius [Moran Mar Basselios Catholicos v. Mar Poulose Athanasius, (1954) 2 SCC 42 : (1955) 1 SCR 520 : AIR 1954 SC 526] )."*

**23.** From above, it becomes clear that this Court can exercise review jurisdiction only under three circumstances, namely, if a new and important matter or evidence has been discovered which, after exercise of due diligence, was not within the knowledge or could not be produced by the petitioner seeking review at the time when the decree was passed or order was made;

secondly, if there is some mistake or error apparent on the face of record; and thirdly, for any other sufficient cause. The phrase "any other sufficient cause" has to be interpreted *ejusdem generis* with the preceding phrases of Order XLVII Rule 1 of the CPC. That is to say that the said phrase means a reason sufficient on grounds at least analogous to those specified in the rules.

**24.** In the instant case, it appears that the plea that the appellate Court or trial Court had not considered the exhibit which were marked as Exhibits-Z-20 to Z-47 was not specifically taken in the revision petition filed by the present petitioner before this Court assailing the judgment of the first appellate Court. The contention that Exhibits-Z-20 to Z-47 was not taken into consideration was neither taken by the petitioner in the Title Appeal No. 120/2016 nor in the Civil Revision Petition No. 97/2019. Hence, said plea cannot be taken for the first time by the petitioners in this review petition as same cannot be regarded as the discovery of new and important matter which, after exercise of due diligence, was not within the knowledge of the petitioner.

**25.** Neither said matter qualifies within the meaning of any other sufficient reasons to be reconsidered at the stage of—at the fourth stage of litigation, after the trial Court has, while deciding Issue No. 2 regarding non-joinder of necessary parties, has categorically held that the brother of the present respondent is not a necessary party to the title suit (eviction suit) filed by the present respondent. The Trial Court, while deciding the Issue No. 2 regarding non-joinder of necessary parties, has made categorical observation that the present petitioner (defendant in Title Suit No. 185 of 2013) has never contended that the plaintiff is not his landlord. In the appeal preferred against the Trial Court's judgment, the present petitioner has never raised any objection

regarding the finding as regards the Issue No. 2 by the Trial Court. The main thrust of petitioner in the appeal preferred by him against the Trial Court's judgment was purported error committed by the Trial Court while deciding the point of *bona fide* requirement of the suit premises.

**26.** The petitioner has also not raised any objection, in the Civil Revision Petition No. 97/2019, against the decision of the Trial Court on the question of non-joinder of necessary parties. The fact that the evidence about which the petitioner is raising question in this review petition, that is Exhibits-Z-20 to Z-47, was not discussed by the Trial Court while arriving at a decision with regard to Issue No. 2, that is question of non-joinder of necessary parties, was well within the knowledge of the petitioner. As such, same cannot be a reason for reviewing the decision passed by this Court in CRP No. 97/2019.

**27.** Moreover, this Court is also of the considered opinion that the reasoning given by the Trial Court while deciding Issue No. 2 and holding that the suit is not bad for non-joinder of necessary parties are good and valid reasoning, and the Trial Court would have arrived at the same conclusion even if the electricity bill receipts which were marked as Exhibits -Z-20 to Z-47 would have been considered by the Trial Court, as the petitioner has admitted the present respondent as its landlord and have never raised any question denying the fact that the present respondent is the landlord of the petitioner in respect of the suit premises.

**28.** On perusal of the judgment dated 04.05.2026 delivered by this Court in CRP No. 97/2019, it appears that the Civil Revision Petition preferred by the present petitioner was mainly dismissed by this Court on the ground that the petitioner has failed to show any jurisdictional error warranting interference by

this Court in exercise of its revisional jurisdiction under Section 115 of the Code of Civil Procedure, 1908.

**29.** In the instant review application also, the petitioner has failed to satisfy this Court as to existence of any of the three grounds mentioned in Order XLVII Rule 1 of the Code of Civil Procedure, 1908, which is required to be there for invoking review jurisdiction by this Court. As such, this Court is of considered opinion that the petitioner has failed to show any sufficient ground for invoking review jurisdiction in this case.

**30.** In view of the discussions made and the reasons stated in the foregoing paragraphs, the instant review application is hereby dismissed with cost.

**31.** The stay of further proceeding of Title Execution Case No. 14/2026, which was granted by this Court by order dated 20.08.2026, is hereby vacated. The executing Court shall proceed with the aforesaid execution case to execute the decree as per law immediately.

**JUDGE**

Abhishek Prem

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Date: 2026.11.03 13:14:47 +05'30'

**Comparing Assistant**