16.04.2026
Ct. No. 30
S.L. No. 1-5
SM

RVW 69 of 2026
With
IA No.: CAN 1 of 2026
M/s. Murlidhar Ratanlal Exports Limited
Versus
The State of West Bengal & Ors.
With
RVW 84 of 2026
With
IA No.: CAN 1 of 2026
CAN 2 of 2026
Congress Yadav
Versus
M/s. Murlidhar Ratanlal Exports Limited
In
WPA 2944 of 2026
M/s. Murlidhar Ratanlal Exports Limited
Versus
The State of West Bengal & Ors.
With
RVW 70 of 2026
IA No. CAN 1 of 2026
M/s. Murlidhar Ratanlal Exports Limited
Versus
The State of West Bengal & Ors.
In
WPA 25131 of 2024
M/s. Murlidhar Ratanlal Exports Limited & Anr.
Versus
The State of West Bengal & Ors.
With
RVW 71 of 2026
IA No. CAN 1 of 2026
M/s. Murlidhar Ratanlal Exports Limited
Versus
The State of West Bengal & Ors.
In
WPA 3562 of 2026
M/s. Murlidhar Ratanlal Exports Limited
Versus
The State of West Bengal & Ors.
With
RVW 85 of 2026
IA No. CAN 1 of 21026
CAN 2 of 2026
Shankar Chowdhury
Versus
M/s. Murlidhar Ratanlal Exports Limited & Ors.

Ms. Amrita Pandey
Mr. Ghanshyam Pandey
……for the petitioners
Mr. Bikash Shaw
…….for the workman
Mr. Bipin Ghosh
…….for the respondent nos. 4 & 5
Mr. Susanta Pal
…….for the State in RVW 69 of 2026 & RVW 71 of 2026

1. All five review applications are taken up for disposal by a common order.

2. It is submitted by the petitioners herein that a common judgment dated 19.02.2026 in WPA 2944 of 2026 along with two other writ applications was passed by this Court relying upon the judgment in ***Bhanu Prakash Versus Assistant Labour Commissioner & Ors.*** in **WPA 9532(W) of 2010 dated 2nd May, 2012** as placed by the petitioner.

3. It is submitted that after the judgment in ***Shanti Devi @ Shanati Mishra Versus Union of India and Ors.*** reported in ***(2020) 12 SCR 279***, the issue of territorial jurisdiction has been decided otherwise.

4. It is submitted by the petitioner that ground for review under Order 47 Rule 1 of CPC exists in this case. The ground is covered by the phrase **"error apparent" on the face of the record,** or **for any other "sufficient reason".** The said phrase has been explained by the Hon'ble Supreme Court in the case reported at ***BCCI versus Netaji Cricket Club & Ors.***

(2005) 4 SCC 741, decided on January 10, 2005, (Paras 89, 90).

> *"89. Order 47 Rule 1 of the Code provides for filing an application for review. Such an application for review would be maintainable not only upon discovery of a new and important piece of evidence or when there exists an error apparent on the face of the record* ***but also if the same is necessitated on account of some mistake or for any other sufficient reason****.*
>
> ***90. Thus, a mistake on the part of the court which would include a mistake in the nature of the undertaking may also call for a review of the order.*** *An application for review would also be maintainable if there exists sufficient reason therefor. What would constitute sufficient reason would depend on the facts and circumstances of the case.* ***The words "sufficient reason" in Order 47 Rule 1 of the Code are wide enough to include a misconception of fact or law by a court or even an advocate. An application for review may be necessitated by way of invoking the doctrine "actus curiae neminem gravabit."***

5. The petitioner prays for review of the said judgment and order stating that grounds for review has been clearly made out and the said order dated 19.02.2026 be reviewed in the interest of justice, there being an error apparent on the face of the record.

6. The Supreme Court in ***BCCI versus Netaji Cricket Club & Ors. (supra)*** has categorically held that a review would be maintainable **not only** upon discovery of new and important piece of evidence or when there exists some error apparent on the face of the record ***but also if the same be necessitated on account of some mistake or for any other sufficient reason*** (as in the present case).

7. On hearing the learned counsels for the parties and on perusal of the judgments relied upon, it appears that the judgment dated 19.02.2025 of which review has been prayed for, was passed relying upon the judgment in ***Bhanu Prakash (supra)*** and the judgment in ***Shanti Devi (supra)*** was erroneously overlooked, while deciding the issue of territorial jurisdiction of the authorities under the payment of gratuity act.

8. In ***Malleeswari versus K. Suguna reported in 2025 INSC 1080 [2025 SCO.LR 9(3) [11]*** dated 9th September, 2025, the Supreme Court laid down the guidelines for a review at Para 14, 15 & 17.

"14. In summing up precedents on the point, the judgment may not be understood as though we are putting an old spin on a classic. The court notes that there is no infirmity or illegality in entertaining the review petition; however, the approach to the error pointed out warrants a review of the precedents on the point.

15. It is axiomatic that the right of appeal cannot be assumed unless expressly conferred by the statute or the rules having the force of a statute. 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 8 appellate power and is subject to the following limitations to maintain the finality of judicial decisions:

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 Court.

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.

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. 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.

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. ***Hence, it is invoked only to prevent a miscarriage of justice or to correct grave and palpable errors****.*

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.* ***Such an error is a patent error and not a mere wrong decision****. 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.*
>
> *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****.*

9. Thus, in view of the observations in this order at Para 8, the petitioners have shown sufficient reasons and made out a case that the order dated 19.02.2026 is reviewable.

10. Review applications are thus allowed.

11. The judgment dated 19.02.2026 in WPA 2944 of 2026 with WPA 3562 of 2026 with WPA

25131 of 2024 is hereby recalled, there being an error apparent on the face of the record, mistake of the Court and sufficient reasons. The matter is taken up for hearing afresh in presence of both the parties **on merits, which shall now also include the facts**.

12. Review being RVW 69 of 2026, RVW 84 of 2026, RVW 70 of 2026, RVW 71 of 2026 and RVW 85 of 2026 stand disposed of.

13. Photostat certified copy of this order, if applied for, be given to the parties on priority basis upon compliance of all formalities.

[Shampa Dutt (Paul). J]

<u>Later</u>

WPA 2944 of 2026

M/s. Murlidhar Ratanlal Exports Limited
Vs
The State of West Bengal & Ors.

With
WPA 3562 of 2026
M/s. Murlidhar Ratanlal Exports Limited
Vs
The State of West Bengal & Ors.

With
WPA 25131 of 2024

M/s. Murlidhar Ratanlal Exports Limited & Anr.
Vs
The State of West Bengal & Ors.

Mr. Soumya Majumder, ld. Sr. Adv.
Ms. Amrita Pandey
Mr. Ghanshyam Pandey
Ms. Gareema Parth
... for the petitioners

Mr. Bikash Shaw
Sk. Saad Islam
... for the respondent no. 4 in WPA 3562 of 2026 and WPA 2944 of 2026

Mr. Susanta Pal
Mr. Subhasish Bandopadhyay
... for the State in WPA 2944/2026

Mr. Susanta Pal
Mr. Debabrata Mondal
.... for the State in WPA 3562 of 2026

<u>Judgment on review</u>

1. The writ applications are accordingly taken up for hearing afresh on disposal of the review applications.

2. The writ petitioner herein has raised the issue of territorial jurisdiction of the respondent nos. 2 and 3, in considering the case of the respondent no. 4 herein and has also challenged the findings arrived by both the authorities on the issue of territorial jurisdiction, vide their respective orders dated 02.05.2024 and 24.11.2025 in Gratuity Case no. 47/G/2023 in WPA 2944 of 2026 and orders dated 23.06.2023 and 30.01.2024 in WPA 3562 of 2026 and orders dated

06.09.2024 and 24.04.2023 in WPA 25131 of 2024.

3. The Controlling Authority decided the **sole issue** of territorial jurisdiction and **held that the said authority had the territorial jurisdiction in the said matter.**

4. **In appeal** the Appellate Authority affirmed the findings of the controlling authority.

5. The petitioner has relied upon the judgment in ***Bhanu Prakash vs. Assistant Labour Commissioner & Ors.*** in ***WP No. 9532 (W) of 2010, decided on 2nd May, 2012, 7 and 8,*** wherein the Court held:-

> *"...........Neither the Payment of Gratuity Act, 1972 nor the statutory rules framed thereunder contains any provision for a transfer of proceeding from one Competent Authority of a particular area to another authority of other area. The employer is a company within the meaning of the Companies Act, which provides that the notice and/or proceeding to be initiated before the authority within whose jurisdiction, the registered office of the company situate The Controlling Authority is the creature of a statute and they are bound to Act within its precincts.*
>
> *......................*
>
> *The affairs of the Company is controlled, managed and administered from the registered office. The payment of gratuity is also one of the element*

> *coming within the ambit of administration and management which is obviously done from the registered office. Therefore, the controlling authority of an area where the registered office of the Company situate is competent to determine the dispute under Section 7 of the said Act. Therefore, the Controlling Authority at Barrackpur, North-24 Parganas is not competent to decide the dispute raised under Section 7 of the said Act………….”*

6. **The respondent/workman** has relied upon the judgment in ***Chairman and Managing Director, Bank of Maharashtra & Ors. vs. Kishore and Ors. reported in 2022 SCC OnLine Bom 11759.***

7. It appears that in the said judgment the Bombay High Court, while deciding the case, considered the:-

(a) issue of, the stage at which the aspect of **territorial jurisdiction** cannot be raised for the first time and (b) applying the judgment in ***Shanti Devi alias Shanati Mishra v. Union of India & Ors. reported in [2020] 12 S.C.R. 279,*** applied the principle of ***"forum conveniens".***

8. In ***Shanti Devi alias Shanati Mishra v. Union of India & Ors. reported in [2020]***

12 S.C.R. 279, **which admittedly was not in existence, when the Calcutta High Court decided the issue of territorial jurisdiction in** ***Bhanu Prakash (Supra),*** the Supreme Court, while **deciding the issue of territorial jurisdiction,** in a pension case held :-

"3. From the facts of the present case, this Court is of the considered opinion that part of cause of action within the territorial jurisdiction of Patna High Court. The deceased petitioner was continuously receiving pension for the last 08 years in his saving bank account in State Bank of India, Darbhanga. The stoppage of pension of late husband of appellant affected him at his native place, he being deprived of the benefit of pension which he was receiving from his employer. The employer requires a retiring employee to indicate the place where he shall receive pension after his retirement. Late husband of appellant had opted for receiving his pension in State Bank of India, Darbhanga, State of Bihar, which was his native place, from where he was drawing his pension regularly for the last 08 years, stoppage of pension gave a cause of action, which arose at the place where the petitioner was continuously receiving the pension……………………."

30. ………… "*The principle that a case should be heard in a Court of the place*

where parties, witnesses, and evidence are primarily located."

31. Black's Law Dictionary defines forum conveniens in following words:-

"The court in which an action is most appropriately brought, considering the best interests and convenience of the parties ad witnesses."

*32. This Court in **Kusum Ingots & Alloys Ltd. (supra)** has also referred to principle of forum conveniens. Following was stated in paragraph 30:-*

*"**Forum conveniens***

***30.** We must, however, remind ourselves that even if a small part of cause of action arises within the territorial jurisdiction of the High Court, the same by itself may not be considered to be a determinative factor compelling the High Court to decide the matter on merit. In appropriate cases, the Court may refuse to exercise its discretionary jurisdiction by invoking the doctrine of forum conveniens. [See Bhagat Singh Bugga v. Dewan Jagbir Sawhney [AIR 1941 Cal 670], Madanlal Jalanv. Madanlal [AIR 1949 Cal 495], Bharat Coking Coal Ltd. v. Jharia Talkies & Cold Storage (P) Ltd. [1997 CWN 122], S.S. Jain & Co. v. Union of India [(1994) 1 CHN 445] and New Horizons Ltd. v. Union of India [AIR 1994 Del 126]."*

9. Learned senior counsel, Mr. Majumder, has raised an interesting point by submitting that the principle of **"forum conveniens"** can be applied, where there is more than one forum, meaning, forum for cases, where more than one area/authority has ‘the territorial jurisdiction’ to decide the issue.

10. It is stated that in this case there is only one forum, which can decide the claim of the workman for gratuity and as such the choice of forum by applying the principle of ‘forum conveniens’ does not arise herein and submits that in all respect the judgment in ***Shanti Devi (supra)*** is not applicable in this case, as the facts therein are entirely different.

11. Considering the submissions of the parties herein, the judgments relied upon and the materials on record, it appears that :

i) Section 7 of the Payment of Gratuity Act, lays down that :

> *“7. **Determination of the amount of gratuity**.- (1) A person who is eligible for payment of gratuity under this Act or any person authorized, in writing to act on his behalf **shall send a written application to the employer, within such time** and in such form, as may be prescribed, for payment of such gratuity.*

12. In this case, the **“employer”** herein is M/s. Murlidhar Ratanlal Exports Limited, whose registered office is at Kolkata, but the factory is located at Hooghly.

13. For the purpose of conducting an inquiry under Section 7(4) of the act, the controlling authority shall have the same powers as are vested in a court, while trying a suit, under the Code of Civil Procedure, 1908 (5 of 1908) (under Section 7(5) of the Act), in respect of the following maters, namely:-

(a) enforcing the attendance of any person or examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

14. In ***Bhanu Pratap (supra)*,** the Court relying upon the meaning of **'employer'** in **the Companies Act** held :-

> *".... The employer is a company within the meaning of the Companies Act which provides that the notice and/or proceeding to be initiated before the authority within whose jurisdiction, the registered office of the company situate. The Controlling Authority is the creature of a statute, and they are bound to Act within its precincts..."*

15. **The Court further held:-**

> *"The affairs of the Company is controlled, managed and administered from the registered office. The payment of gratuity is also one of the element*

coming within the ambit of administration and management which is obviously done from the registered office. ***Therefore, the controlling authority of an area where the registered office of the Company situate is competent to determine the dispute under Section 7 of the said Act.*** *Therefore, the Controlling Authority at Barrackpore, North 24-Parganas is not competent to decide the dispute raised under Section 7 of the said Act."*

16. The definition of the word **'employer'** under the **companies act** has been relied upon in ***Bhanu Prakash vs Assistant Labour Commissioner & Ors. in WP no. 9532(W) of 2010, decided on 2nd May, 2012, Para 7 and 8.***

17. The payment of gratuity act, applicable in the present case, **defines 'employer'** as follows:-

Section 2(f) employer:-

"Section 2(f) "employer" means, in relation to ***any establishment, factory, mine, oilfield, plantation, port, railway company or shop*** *- (i) belonging to, or under the control of the Central Government or a State Government, a person or authority appointed by the appropriate Government for the supervision and control of employees, or where no person or*

authority has been so appointed, the head of the Ministry or the Department concerned, (ii) belonging to, or under the control of, any local authority, the person appointed by such authority for the supervision and control of employees or where no person has been so appointed, the chief executive office of the local authority, (iii) in any other case, the person, who, or the authority which, has the ultimate control over the affairs of the establishment, factory, mine, oilfield, plantation, port, railway company or shop, and where the said affairs are entrusted to any other person, whether called a manager, managing director or by any other name, such person;"

18. **Section 3 of the Payment of Gratuity Act lay down:-**

> ***"Section 3. Controlling authority.-*** *The appropriate Government may, by notification, appoint any officer to be a controlling authority, who shall be responsible for the administration of this Act and different controlling authorities may be appointed for different areas."*

19. This section empowers the appropriate Govt. to "appoint officers" as "Controlling Authority" via notifications and are appointed for different areas to oversee the implementation of the Act.

20. **This section** sets up the machineries for enforcement, ensuring employees have a legal recourse to settle. As such, under Section 3 of the Act, the officers are appointed as "Controlling Authorities" and each of such appointed authorities may be **designated for different geographical areas to handle compliance.**

21. As such, the appointment of such Controlling Authorities for different areas is not disputed and each such authority has its own area and jurisdiction.

22. The dispute herein is as to the territorial jurisdiction of such authority, while excising powers under Section 7 of the Act.

23. Section 7B(b) of the Payment of Gratuity Act provides for an inspector to enter and inspect:-

> ***"Section 7-B(b):-*** *(b) enter and inspect, at all reasonable hours, with such assistants (if any), being persons in the service of the Government or local or any public authority, as he thinks fit, any premises of or place in* ***any factory, mine, oilfield, plantation, port, railway company, shop or other establishment to which this Act applies, for the purpose of examining any register, record or notice or other document required to be kept or exhibited under this Act or the rules made there under, or otherwise kept or exhibited in relation to the***

> ***employment of any person <u>or the payment of gratuity to the employees,</u> and require the production thereof for inspection;"***

24. **Section 7B(d) of the Payment of Gratuity Act, lays down:-**

> ***"Section 7-B(d)*** *make copies of, or take extracts from, any register, record, notice or other document, as he may consider relevant, and where he has reason to believe that any offence under this Act has been committed by an employer, search and seize with such assistance as he may think fit,* ***such register, record, notice or other document as he may consider relevant in respect of that offence;"***

25. In view of the provisions under Section 7B(b) and 7B(d) of the payment of gratuity act, the principle in the judgment of ***Bhanu Prakash (Supra)*** is now replaced by ***Shanti Devi (Supra)***.

26. **As such under the payment of gratuity act,** the authority concerned, herein being the controlling authority and the appellate authority, **of such area,** ("forum conveniens"), where the factory, mine, oilfield, plantation, port, railway company, shop or other establishment is situated and where the documents, records, including registers, **relating to the employment of any person** or **the**

payment of gratuity to the employees, maintained, kept and exhibited, under the Act and also where the parties, witnesses, and evidences ***(Shanti Devi (Supra))*** are primarily located, **shall have the territorial jurisdiction** to decide the issues under the Act.

27. Accordingly, the impugned orders dated 02.05.2024 and 24.11.2025 in WPA 2944 of 2026 and orders dated 23.06.2023 and 30.01.2024 in WPA 3562 of 2026 and orders dated 06.09.2024 and 24.04.2023 in WPA 25131 of 2024 passed by the Controlling Authority and the Appellate Authority, Chandernagore, Hooghly, being in accordance with law require no interference.

28. The proceedings in the gratuity cases before the controlling authority be accordingly heard on merit and decided in accordance with law within 60 (sixty) days from the date of this order/judgment.

29. **WPA 2944 of 2026, WPA 3562 of 2026 and WPA 25131 of 2024 are disposed of on review.**

30. Application, if any, connected thereto stands disposed of consequently.

31. Interim order, if any, stands disposed of.

32. Urgent Photostat certified copy of this order, if applied for, be given to the parties, upon usual undertakings.

(Shampa Dutt (Paul), J.)