

30.06.2026
Item No.1
Court No. 30
Piya

RVW 148 of 2026
In
CO No. 1429 of 2024
With
CAN 1 of 2026
CAN 2 of 2026

Calcutta Infrastructure Infotech Projects
Ltd.

-vs-

ARS Enterprises Pvt. Ltd. & Ors.

Mr. Joy Saha, Ld. Sr. Adv.
 Mr. Shatadru Chakraborty
 Mr. Bhaskar Mukherjee
 Mr. D. Datta

..... for the Petitioner

Mr. Abhrajit Mitra, Ld. Sr. Adv.
 Ms. Radhika Singh
 Mr. Sourojit Dasgupta

.....For the Opposite Party No. 1

1. This application is for review of the order dated February 13, 2026 passed by this Court in CO 1429/2024, on the following grounds:-

- i. That there are errors and/or mistake apparent on the face of the judgment/order under review.
- ii. That the Hon'ble Court erred in not appreciating that the Debts Recovery Tribunal is not a Civil Court having the power to decide ownership and title of land.

- iii. That the Hon'ble High Court erred in not appreciating that when there are rival claims with regard to title and ownership of land, such issues cannot be resolved by the Debts Recovery Tribunal.
- iv. That the Hon'ble High Court erred in not appreciating that a decree or judgment passed by a Civil Court cannot be reviewed and/or modified and/or altered by the DRT and that too after a period of 24 years and 41 days from the date of passing of such judgment and decree.
- v. That the Hon'ble High Court erred in not appreciating that an order passed by the Hon'ble High Court at Calcutta exercising jurisdiction under Article 227 of the Constitution of India cannot be reviewed and/or modified and/or corrected and/or clarified by the DRT.
- vi. The Hon'ble High Court erred in not appreciating that an application under Section 5 of the Limitation Act for condoning a delay of 24 years 41 days cannot be entertained or allowed without first deciding the question of the Court's jurisdiction to entertain such petition.
- vii. The Hon'ble High Court erred in not appreciating that the Hon'ble High Court

at Delhi cannot direct or vest jurisdiction on the DRT Calcutta to decide an issue concerning the title and ownership of immovable property.

- viii. The Hon'ble High Court erred in not appreciating that the petitioner did not in any manner whatsoever ever acquiesce or agree to the jurisdiction of the DRT to entertain a petition for review to decide the question of title and ownership of the immovable property in question.
- ix. The Hon'ble High Court erred in not appreciating that parties cannot by consent, confer jurisdiction on a Court and that the observations in Para 43 of the impugned order was challenged in revision to be set aside by this Court.
- x. The Hon'ble Delhi High Court had never, and could not vest jurisdiction in the Kolkata DRT. The observations of the DRAT in para 47 are contradictory in that the same records that the challenge to the maintainability of the review petition being RA No.01 of 2025 is to be decided by the Learned DRT.

2. Mr. Saha, learned senior counsel appearing for the petitioner praying for review, has argued that the observations in Para 9 (ii) (iii) of the

judgment /order under review is to be set aside along with the observations in Para 10, on the ground as made out in the petitioner's prayer for review.

3. Mr. Mitra, learned senior counsel appearing for the opposite party submits that the petitioner's review application is in substance an appeal where in the petitioner is also praying for clarification of observations of the Court and also the decision/findings of the Court and there being no error apparent on the face of the record, the review application being not maintainable, having no substance/merit is liable to be dismissed.
4. Mr. Saha has stressed on the point that this Court in review should specify, that the tribunal would be at liberty to decide all issues, as all points were kept open by this Court and on the said prayer, submits that the specific observations/findings in the judgment impugned be set aside, leaving them for the tribunal to decide.
5. Mr. Saha, further submits that observations/findings of this Court in the judgment impugned as referred to being not in accordance with law is to be set aside.
6. **This being the prayer, may be permissible in an appeal but not in review.**

7. The Supreme Court in **Board of Control for Cricket, India & Anr. vs Netaji Cricket Club & Ors.**, on 10 January, 2005, held:-

“.....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.

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 is 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".

It is true that in Moran Mar Basselios Catholicos and Another Vs. The Most Rev. Mar Poulouse Athanasius and Others [(1955) 1 SCR 520], this Court made observations as regard limitations in the application of review of its order stating :

"Before going into the merits of the case it is as well to bear in mind the scope of the application for review which has given rise to the present appeal. It is needless to emphasise that the scope of an application for review is much more restricted than that of an appeal. Under the provisions in the Travancore Code of Civil Procedure which is similar in terms to Order XLVII, rule 1 of our Code of Civil Procedure, 1908, the Court of review has only a limited jurisdiction circumscribed by the definitive limits fixed by the language used therein. It may allow a review on three specified grounds, namely
(i) discovery of new and important matter or evidence which, after the exercise of due diligence, was not

within the applicant's knowledge or could not be produced by him at the time when the decree was passed, (ii) mistake or error apparent on the face of the record and (iii) for any other sufficient reason. It has been held by the Judicial Committee that the words "any other sufficient reason" must mean "a reason sufficient on grounds, at least analogous to those specified in the rule.", but the said rule is not universal.

Yet again in *Lily Thomas (supra)*, this Court has laid down the law in the following terms:

"52. The dictionary meaning of the word "review"

is "the act of looking, offer something again with a view to correction or improvement". It cannot be denied that the review is the creation of a statute.

This Court in *Patel Narshi Thakershi v.*

Pradyumansinghji Arjunsinghji, AIR 1970 SC 1273 held that the power of review is not an inherent power. It must be conferred by law either specifically or by necessary implication. **The review is also not an appeal in disguise.** It cannot be denied that justice is a virtue which transcends all barriers and the rules or procedures or technicalities of law cannot stand in the way of administration of justice. Law has to bend before justice. If the Court finds that the error pointed out in the review petition was under a mistake and the earlier judgment would not have been passed but for erroneous assumption which in fact did not exist and its perpetration shall result in miscarriage of justice nothing would preclude the Court from rectifying the error□"

(Emphasis supplied) It is also not correct to contend that the court while exercising its review jurisdiction in any situation whatsoever cannot take into consideration a subsequent event. In a case of this nature when the court accepts its own mistake in understanding the nature and purport of the undertaking given by the learned senior counsel appearing on behalf of the Board and its correlation with as to what transpired in the AGM of the Board held on 29th September, 2004, the subsequent

event may be taken into consideration by the court for the purpose of rectifying its own mistake.”

8. In *Murali Sundaram vs Jothibai Kannan*, in Civil Appeal Nos. 1167-1170 of 2023, on 24 February, 2023, the Supreme Court held:-

*“5. At the outset, it is required to be noted that by the impugned judgment and order the High Court has allowed the review application filed under Order 47 Rule 1 CPC and has set aside the judgment and order dated 03.03.2017 passed in Writ Petition No.8606 of 2010. While allowing the review application the High Court has observed and held that the earlier judgment and order dated 03.03.2017 in Writ Petition No.8606 of 2010 was erroneous. Therefore, question which is posed before this Court for consideration is whether in the facts and circumstances of the case the High Court is justified in allowing the review application filed under Order 47 Rule 1 CPC and setting aside the reasoned judgment and order passed in main writ petition? 5.1 While considering the aforesaid issue two decisions of this Court on Order 47 Rule 1 read with Section 114 CPC are required to be referred to? In the case of *Perry Kansagra* (supra) this Court has observed that while exercising the review jurisdiction in an application under Order 47 Rule 1 read with Section 114 CPC, **the Review Court does not sit in appeal over its own order. It is observed that a rehearing of the matter is impermissible in law.** It is further observed that review is not appeal in disguise. It is observed that 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. It is further observed that it is wholly unjustified and exhibits a tendency to rewrite a judgment by which the controversy has been finally decided. After considering catena of decisions on exercise of review powers and principles relating to exercise of review jurisdiction under Order*

47 Rule 1 CPC this Court had summed upon as under:

“(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 face 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 longdrawn 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 way of invoking the doctrine actus curiae neminem gravabit.”

5.2 It is further observed in the said decision that **an error which is required to be detected by a process of reasoning can hardly be said to be an error on the face of the record.**

5.3 In the case of Shanti Conductors (P) Ltd. (supra), it is observed and held that scope of review under Order 47 Rule 1 CPC read with Section 114 CPC is limited and under the guise of review, **the petitioner cannot be permitted to reagitate and reargue questions which have already been addressed and decided. It is further observed that an error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of record justifying the court to exercise its power of review under Order 47 Rule 1 CPC.....**

5.5 Even if the judgment sought to be reviewed is erroneous the same cannot be a ground to review the same in exercise of powers under Order 47 Rule 1 CPC. **An erroneous order may be subjected to appeal before the higher**

forum but cannot be a subject matter of review under Order 47 Rule 1 CPC.”

9. In the present case, the prayer for review has been made not only calling for modification/clarification of the order impugned, but also setting aside certain observations and/or findings of the Court, which the petitioner argues should be set aside for one of the reasons being that the tribunal should be allowed to decide all issues which are to kept open by this Court.
10. It is thus clear that the review application has been preferred, even though there is no error apparent on the face of the judgment/order under review.
11. The grounds on which the prayer for review has been made, are not grounds for review, there being no material error, manifest on the face of the judgment/order under review and thus no miscarriage of Justice.
12. Considering the grounds on which review has been prayed for, it appears that the review application is clearly an appeal in disguise, as there is no error apparent on the face of the record.
13. The petitioners in the review application have sought to re-appreciate the materials on record, which is not permissible under the forum of

review, there being no prima facie misconception of fact or law in the judgment/order under review.

14. Thus there being no ground for review having been made out, **RVW 148 of 2026 arising out of CO No. 1429 of 2024 stands dismissed.**

15. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties, expeditiously after complying with all necessary legal formalities.

(Shampa Dutt (Paul), J.)