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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 1291/2006 (*Disposed of*)

ARVIND GUPTA & ANR .....Petitioners

Through: Ms. Deepika V. Marwaha, Sr. Adv. with Mr. Tushar Mahajan, Mr. Tanishq Sharma, Advs.

versus

LIEUTENANT GOVERNOR, DELHI & ANR .....Respondent

Through: Ms. Tripathy, Adv.

CORAM:
HON'BLE MR. JUSTICE JASMEET SINGH

<u>O R D E R</u>

% **08.04.2026**

<u>CM APPL. 22573/2026</u>

1. This is an application filed under Section 151 of CPC, 1908 seeking condonation of 20 days in filing the review petition.

2. For the reasons stated in the application, issue notice.

3. Ms. Tripathy, learned standing counsel accepts notice on behalf of the DDA and has no objection to the application being allowed.

4. The application is allowed and the review petition is taken up for hearing.

<u>REVIEW PET. 152/2026</u>

5. This is a review petition filed under Section 114 read with Order XLVII of the CPC, 1908 seeking the following prayer:-

> *"A. Review the order dated 10.02.2026 passed in W.P.(C) 129112006 and pass appropriate orders in the writ petition in accordance with law ..."*

6. The principal grounds urged in the review petition are: (i) that this Court failed to adjudicate upon the applicability of Clauses 7(i) and 7(ii) of the Circular dated 02.08.1996, despite the same being recorded; (ii) that the subsequent circulars relied upon in the impugned order do not override the 1996 Circular; (iii) that the policy dated 22.04.2014 has either not been considered or has been incorrectly applied; and (iv) that reliance on the calculation sheet filed by the respondent without examining its consistency with applicable policies constitutes an error apparent on the face of the record.

7. Learned senior counsel for the petitioners has reiterated that the misuse area in question was limited and fell within the permissible limits under Clause 7(ii) of the Circular dated 02.08.1996, and therefore the petitioners' liability stood confined to payment of conversion charges in terms thereof. It is further contended that once the petitioners had applied for conversion in 1996 and deposited the requisite charges, their liability could not be enlarged by subsequent circulars. It is also urged that even under the policy dated 22.04.2014, misuse charges could only have been levied for a period of five years from the date of detection.

8. I have heard learned senior counsel for the petitioner/review applicant.

9. Before adverting to the contentions it is important to set out the scope of review. In ***S. Murali Sundaram v. Jothibai Kannan, (2023) 13 SCC 515,*** it was held as under:

> *"**16.** While considering the aforesaid issue two decisions of this Court on Order 47 Rule 1 read with Section 114CPC are required to be referred to? In Perry Kansagra [Perry*

Kansagra v. Smriti Madan Kansagra, (2019) 20 SCC 753] this Court has observed that while exercising the review jurisdiction in an application under Order 47 Rule 1 read with Section 114CPC, 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.

***17.** After considering a catena of decisions on exercise of review powers and principles relating to exercise of review jurisdiction under Order 47 Rule 1CPC this Court had summed up as under : (Perry Kansagra case [Perry Kansagra v. Smriti Madan Kansagra, (2019) 20 SCC 753] , SCC pp. 768-69, para 15.1)*

"15.1. '33. ... "... (i) Review proceedings are not by way of appeal and have to be strictly confined to the scope and ambit of Order 47 Rule 1CPC.

<u>(ii) Power of review may be exercised when some mistake or error apparent on the fact 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 long-</u>

<u>drawn process of reasoning on the points where there may conceivably be two opinions.</u>

<u>(iii) Power of review may not be exercised on the ground that the decision was erroneous on merits.</u>

<u>(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.</u>

(v) An application for review may be necessitated by way of invoking the doctrine actus curiae neminem gravabit." ' (As observed in : Inderchand Jain v. Motilal, (2009) 14 SCC 663, p. 675, para 33)"

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.

18. *In Shanti Conductors (P) Ltd. [Shanti Conductors (P) Ltd. v. Assam SEB, (2020) 2 SCC 677 : (2020) 2 SCC (Civ) 788] , 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."*

(emphasis added)

10. The relevant paragraphs of the impugned order read as under:-

"8. It is the case of the petitioners that they fall within Clause No. 7(ii) of the Circular. Pursuant thereto, the petitioners filed an application for conversion of the said property from lease-hold to free-hold and deposited conversion charges of Rs. 71,848/- calculated as per self assessment basis.

9. Thereafter, various notifications were issued by DDA modifying the terms and conditions of the 1996 Circular.

...

15. Mr. Mahajan, learned counsel for the petitioners, states that the petitioners are covered by the 1996 Circular and as per Clause No. 7(ii), the amount of Rs. 71,848/- is due and payable.

...

20. A perusal of the Circular and more particularly the circulars dated 26.06.2001, 08.08.2001 and 11.08.2003 show that the misuser charges will be applicable to the date of stoppage of misuse.

21. In the present case, the misuse of the said property stopped in the year 2000-2001 and the DDA applied the policy prevalent on the said date to calculate the misuser charges.

22. Admittedly, even after submitting the conversion application, the misuser continued till the year 2000-2001.

23. For the said reasons, I am satisfied that in the present case, the demand made by DDA on the policy prevalent on the date when the misuser was stopped would be applicable to the *petitioners. The said misuser charges comes to about Rs. 16 lakhs or near about.*

24. The same is evident from the fact that out of Rs. 35,81,893/- deposited by the petitioners, a sum of Rs. 23,48,175/- has been refunded by DDA on 16.07.2015.

25. The misuser charges calculation sheet has been annexed as Annexure R-5 with the Counter Affidavit on behalf of the respondent No. 2/ DDA, which shows a sum of Rs. 16,78,328.23/- as due and payable.

26. To my mind, the same is based on the policy of the respondent No.2/ DDA."

11. In the present case, the principal contention of the petitioners relates to the applicability of the Circular dated 02.08.1996, particularly Clauses 7(i) and 7(ii). It is no doubt correct that the said contention was recorded in the judgment dated 10.02.2026. However, a perusal of the impugned order, especially paragraphs 20 to 23, clearly demonstrates that this Court considered the policy framework in its entirety, including the 1996 Circular as well as the subsequent circulars dated 26.06.2001, 08.08.2001 and 11.08.2003.

12. This Court, after such consideration, returned a finding that misuse charges were payable till the cessation of misuse and that the policy prevalent at the time when the misuse ceased would govern the determination of such charges. It was also noted that, in the facts of the case, misuse admittedly continued till the year 2000–2001.

13. In that view of the matter, though there is no separate or elaborate discussion on Clauses 7(i) and 7(ii) of the Circular dated 02.08.1996, the

reasoning adopted in the impugned order clearly indicates that this Court preferred the applicability of the subsequent circulars governing misuse charges. The conclusion implies rejection of the petitioners' contention that their liability stood confined to the 1996 Circular. Mere absence of an elaborate discussion does not constitute an error apparent on the face of the record.

14. A perusal of the Circular dated 26.06.2001 (as modified on 08.08.2001) and the subsequent Circular dated 11.08.2003 clearly indicates that the policy governing misuse charges underwent modification. These circulars stipulate that misuse charges shall be payable from the date of detection till the date of cessation of misuse, or till the date of application for conversion, as applicable. Thus, the policy framework was not static, and the applicable regime was the one prevailing at the time of cessation of misuse.

15. The submission that the subsequent circulars do not override the 1996 Circular is, in effect, an argument on merits regarding interpretation of policy. This Court, in the impugned order, has already taken a conscious view on the interplay between the circulars. The same cannot be reopened in review jurisdiction.

16. With regard to the reliance placed on the policy dated 22.04.2014, it is noted that the said policy was considered in the factual context of the case, and consequential adjustments were made by the respondent, including refund of a substantial amount. The contention now raised by the petitioners that even under the said policy, misuse charges ought to have been restricted to a different period, would require a detailed re-examination of facts. Such an exercise falls squarely within the realm of merits and cannot be undertaken in review proceedings.

17. Similarly, the challenge to the calculation sheet and the contention that the policies were not harmoniously construed are also matters requiring reappreciation of the record and the reasoning adopted in the original judgment. These do not constitute errors apparent on the face of the record.

18. For the said reasons, I am of the view that the review petition is an abuse of the process of law and is dismissed with the cost of Rs. 50,000/- payable to the Delhi High Court Bar Association within 2 weeks from the date of the release of the order.

19. Let the compliance be filed within 1 week thereafter failing which the file shall be put up by the registry.

JASMEET SINGH, J

APRIL 8, 2026/AS

(corrected and released on 28.04.2026)