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RP-1613-2026

IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE SANDEEP N. BHATT

&

HON'BLE SHRI JUSTICE JAI KUMAR PILLAI

REVIEW PETITION No. 1613 of 2026

CNR No.: MPHC020316252026

*SANTOSH**Versus**THE STATE OF MADHYA PRADESH AND OTHERS*

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Appearance:

Shri Ashish Gupta - Advocate for the petitioner.

Shri Shashank Shekhar Rai with Shri Yash Agrawal advocates for
respondent No.6.Shri Manoj Kumar Soni advocate for respondent No..5.
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RESERVED ON : 18.09.2026

DELIVERED ON : 29.09.2026

Whether Reportable or not? Yes/No
.....

ORDER

Per. Justice Sandeep N. Bhatt

Heard counsel for the parties.

2. This review petition has been filed by petitioner being aggrieved and dissatisfied by order dated 17.7.2026 passed by this Hon'ble court in writ appeal No. 1810/2026.

3. Brief facts of the case are as under:-



The son of petitioner Dinesh Makwana, permanent resident of Kanadia village, had been experiencing mental distress for the past several days. He held a liquor shop license and ran licensed liquor shops in Indore and Dewas district. For several days Respondent no 6 Excise Assistant Commissioner Mandakini Dixit posted in Dewas was demanding illegal demands of Rs.150,000/- per month per shop. She was demanding that Dinesh Makwana sell a quarter worth Rs 280 for Rs 90 and give her extra Rs 10 as commission. Respondent no 6 Mandakini Dixit would also withhold legal permits for goods arriving at the shop until she received the demanded amount. Dinesh Makwana had paid Rs.22,00,000 (Twenty Two Lakhs Rupees). But Respondent no 6 Mandakini Dixit continued to pressure him for more money. Despite repeated requests by son of petitioner, she continued to harass him for money. She threatened to implicate him in a false case if he did not pay. Frustrated by this, Dinesh Makwana committed suicide by consuming sulphas poison on 08.11.2025. Before committing suicide he also made video recording which is attached in pen drive, after that Police is not investigating the matter properly and not taking any action against the Respondent no 6. Therefore the Writ Petition is registered as WP/47622/2025 and the learned single judge passed an order that "In view of the Same, the petition stands allowed to the extent that the investigation of the present case shall be handed over by Police Station Kanadia, District Indore to the CBI immediately, who shall register an FIR and after investigation, bring the case to some logical conclusion." After that the Police has handed over the matter to the Respondent no 5 CBI. While CBI



registered an F.I.R after the order of Learned single judge which is registered as a RC0082026S006 dated 22.05.2026 at P.S-CBI/ACB/BHOPAL. The respondent No. 6 Mandakini Dixit filed writ appeal No. 1810/2026 on 26.05.2026 before this Hon'ble High Court and the Divisional bench of this Hon'ble High Court has allowed the writ appeal by order dated 17.7.2026 by quashing the order of learned Single Judge. Respondent Sunil (review petitioner herein) has filed this review petition for recalling the order dated 17.7.2026 passed in writ appeal.

4. Counsel for petitioner has drawn attention of this Court towards order passed in writ petition No. 47622/2025 whereby the learned court has handed over the investigation to the CBI by directing to register FIR and after investigation, bring the case to some logical conclusion. He has also drawn attention of this Court towards the observations made by this Hon'ble Court in the order passed in writ appeal in paras 23 and 24 and has contended that in view of this background, the Division Bench has proceeded on assumption that review petitioner ought to have exhausted the remedy under Section 154(3), 156 (3) and 200 of Cr.P.C. /BNSS before invoking Article 226 of Constitution. He has further submitted that the judgment overlooks the settled principle that the existence of an alternative remedy is a rule of self-restraint and not an absolute bar where the facts disclose exceptional circumstances requiring an independent investigation. He has further submitted that the Division Bench failed to appreciate that the allegations are directed against a senior public servant holding a responsible post in the Excise Department. He has submitted that the Division Bench has



not considered the facts regarding the electronic evidence, including the finding that the video was recorded by the deceased located in their mobile is prima facie real and without any trial or forensic adjudication. Such observations prejudice the rights of review petitioner. It is also contended that at the stage of registration of FIR and investigation, the court was not required to evaluate the evidentiary value or admissibility of the electronic record. He has submitted that once the FIR is registered pursuant to judicial direction and investigation had commenced, the Division Bench ought not to have quashed the FIR merely on the ground that the original writ petition was not maintainable. Therefore, he has prayed that the review is required to be allowed by relying on judgments dated 10.3.2026 passed in WA No. 677/2026 in the matter of **Umesh Godaniya Vs. State of MP** ; the judgment of Hon'ble Apex court in case of **Board of Control for Cricket Vs. Netaji Cricket Club reported in 2005(4) SCC 741**. He has submitted that the scope of review is larger in view of Order 47 Rule 1 CPC. Hence the review petition is required to be allowed.

5. Counsel for respondent No. 6 has opposed the same by filing reply. It is contended that no ground for review is disclosed or demonstrated under Order 47 Rule 1 CPC. It is also contended that the review cannot be appeal in disguise. Counsel has relied on judgments passed in **Kamlesh Verma Vs. Mayawati and others reported in (2013) 8 SCC 320**, **Parsion Devi and others Vs. Sumitri Devi and others reported in (1997) 8 SCC 715**. He has further relied on judgment in case of **Meera Bhanja Vs. Nirmala Kumari Choudhary reported in (1995) 1 SCC 170** and judgment passed in case of **Aribam**



Tuleshwar Sharma Vs. Aribam Pishak Sharma reported in (1979) 4 SCC 389. He has further submitted that an error apparent must be self evident and the language in the review application is the language of appeal. He has further submitted that no accidental omission is demonstrated which is required under Order 47 Rule 1 CPC regarding omission of any material pleading, submission, statutory provisions or document which escaped from the attention of the Court. It is further contended that the issues now raised were already raised before the Division Bench. He has further submitted that in view of the judgment passed in case of **Jain Studio Ltd Vs. Shin Satellite Public Co. Ltd. reported in (2006) 5 SCC 501**, under the garb of filing a review petition, a party cannot be permitted to repeat old and overruled arguments. He has submitted that it is well settled law that in exercise of review jurisdiction, the Court cannot reappreciate the evidence to arrive at a different conclusion even if two views are possible in a matter by relying on judgment passed in case of **Kerala State Electricity Board Vs. Hitech Electrothermics & Hydropower Ltd reported in (2005) 6 SCC 651**. He has submitted that on merits also by giving the reply in detail he has submitted that none of the grounds require interference and review petition is required to be dismissed.

6. Counsel for respondent No.5 has submitted that nothing much is required to be argued as in view of the earlier order passed by the Division Bench the papers are handed over and deposited before the concerned trial Court for further process. He has submitted that nothing much is required to be done at the end of CBI as CBI has carried out some further investigation



by recording statements.

7. We have considered the rival submissions made at the bar. We have also considered the scope of judicial review under Order 47 Rule 1 CPC which reads as under:

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.

8. It is relevant to refer to the judgments cited by counsel for the petitioner as under:

(i) In case of **Umesh Godanyia (supra)**, the Division Bench has held as under:-

11. After the judgment of Apex Court in the case of **Jamshed N. Guzdar Vs. State of Maharashtra**, (2005) 2 SCC 591, **Madhya Pradesh Uchha Nyayalaya (Khand Nyaypeeth Ko Appeal) Adhiniyam, 2005** (hereinafter referred to as “the Adhiniyam, 2005”) came into existence for intra court appeal. Section 2 of the Adhiniyam, 2005 provides a mechanism of intra court appeal in following manner:

2. Appeal to the Division Bench of the High Court from a Judgment or order of one Judge of the High Court made in exercise of original jurisdiction:- (1) An appeal shall lie from a Judgment or order passed by one Judge of the High Court in exercise of original jurisdiction under Article 226 of the Constitution of India, to a Division Bench comprising of two judges of the same High Court: Provided that no such appeal shall lie against an interlocutory order or against an order passed in exercise of supervisory jurisdiction under Article 227 of the



Constitution of India. 9 (2) An appeal under sub-section (1) shall be filed within 45 days from the date of order passed by a single Judge: Provided that any appeal may be admitted after the prescribed period of 45 days, if the petitioner satisfies the Division Bench that he had sufficient cause for not preferring the appeal within such period.

Explanation:- The fact that the petitioner was misled by any order, practice or judgment of the High Court in ascertaining or computing the prescribed period may be sufficient cause within the meaning of this sub-section.

(3) An appeal under sub-section (1) shall be filed, heard and decided in accordance with the procedure as may be prescribed by the High Court.

12. It provides an appeal only arising out of order passed under Article 226 of the Constitution of India. As per discussion held in Ram Kishan Fauji (supra) proceedings under Article 226 of Constitution would be original/civil proceedings and here powers exercised by learned Single Judge is of original/criminal jurisdiction. Therefore, this distinction is to be kept in mind while considering the moot question. This aspect is discussed by the Full Bench in the case of Shailendra Kumar Vs. Divisional Forest Officer and another, 2017(4) MPLJ 109. In para 18 the Full Bench held in following manner:

“18. We may clarify that the orders passed by the Judicial Courts, subordinate to a High Court even in criminal matters when challenged in proceedings before the High Courts are only under Article 227 of the Constitution of India. Thus no intra court appeal would be maintainable against an order passed by the Learned Single Judge in proceedings arising out of an order passed by Judicial Courts, may be civil or criminal proceedings.”

(ii) In the matter of Board of Control For Cricket (supra), the Hon'ble Apex court while dealing with provisions of Order 47 Rule 1 CPC has held as under:-

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.

9. Counsel for respondent No. 6 has relied upon following judgements:



(i) In the matter of **Kamlesh Verma (supra)**, the Hon'ble Court has held as under:

20. Thus, in view of the above, the following grounds of review are maintainable as stipulated by the statute:

20.1. When the review will be maintainable:(i) Discovery of new and important matter or evidence which, after the exercise of due diligence, was not within knowledge of the petitioner or could not be produced by him;

(ii) Mistake or error apparent on the face of the record;

(iii) Any other sufficient reason. The words "any other sufficient reason" has been interpreted in *Chajju Ram vs. Neki*, and approved by this Court in *Moran Mar Baselios Catholic Most Rev. Mar Poulouse Athanasius & Ors.* to mean "a reason sufficient on grounds at least analogous to those specified in the rule".

The same principles have been reiterated in *Union of India v. Sandur Manganese & Iron Ores Ltd. & Ors* reported in (2013)8 SCC 337;

20.2. When the review will not be maintainable:(i) A repetition of old and overruled argument is not enough to reopen concluded adjudications.

(ii) Minor mistakes of inconsequential import.

(iii) Review proceedings cannot be equated with the original hearing of the case.(iv) Review is not maintainable unless the material error, manifest on the face of the order, undermines its soundness or results in miscarriage of justice.(v) A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected but lies only for patent error.(vi) The mere possibility of two views on the subject cannot be a ground for review.(vii) The error apparent on the face of the record should not be an error which has to be fished out and searched.(viii) The appreciation of evidence on record is fully within the domain of the appellate court, it cannot be permitted to be advanced in the review petition.

(ix) Review is not maintainable when the same relief sought at the time of arguing the main matter had been negated.

(ii) In the matter of **Parsion Devi (supra)** it has been held as under:-

“7. It is well settled that review proceedings have to be strictly confined to the ambit and scope of Order 47 Rule 1 CPC. In *Thungabhadra Industries Ltd. v. Govt. of A.P.* reported in 1964 SCR (5) 174, this Court opined:



11. What, however, we are now concerned with is whether the statement in the order of September 1959 that the case did not involve any substantial question of law is an 'error apparent on the face of the record'. The fact that on the earlier occasion the Court held on an identical state of facts that a substantial question of law arose would not per se be conclusive, for the earlier order itself might be erroneous. Similarly, even if the statement was wrong, it would not follow that it was an 'error apparent on the face of the record', for there is a distinction which is real, though it might not always be capable of exposition, between a mere erroneous decision and a decision which could be characterized as vitiated by 'error apparent'. A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected but lies only for patent error.

(iii) In the matter of **Meera Bhanja (supra)**, it has been held as under:-

9. Under Order 47 Rule 1 CPC a judgment may be open to review inter alia if there is a mistake or an error apparent on the face of the record. 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 the record justifying the court to exercise its power of review under Order 47 Rule 1 CPC. In exercise of this jurisdiction under Order 47 rule 1 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'."

(iv) In the matter of **Jain Studios (supra)**, the Hon'ble Apex court has held as under:-

11. So far as the grievance of the applicant on merits is concerned, the learned counsel for the opponent is right in submitting that virtually the applicant seeks the same relief which had been sought at the time of arguing the main matter and had been negatived. Once such a prayer had been refused, no review petition would lie which would convert rehearing of the original matter. It is settled law that the power of review cannot be confused with appellate power which enables a superior court to correct all errors committed by a subordinate court. It is not rehearing of an original matter. A repetition of old and overruled argument is not enough to reopen concluded adjudications. The power of review can be exercised with extreme care, caution and circumspection and only in exceptional cases. 12. When a prayer to appoint an arbitrator by the applicant herein had been made at the time when the arbitration petition was heard and was rejected, the same relief cannot be sought by an indirect method by filing a review petition. Such petition, in my opinion, is in the nature of 'second innings' which is impermissible and unwarranted and cannot be granted."



(v) In the matter of **Kerala State Electricity Board (supra)**, it has been held as under:

10....In a review petition it is not open to this Court to reappreciate the evidence and reach a different conclusion, even if that is possible. Learned counsel for the Board at best sought to impress us that the correspondence exchanged between the parties did not support the conclusion reached by this Court. We are afraid such a submission cannot be permitted to be advanced in a review petition. The appreciation of evidence on record is fully within the domain of the appellate court. If on appreciation of the evidence produced, the court records a finding of fact and reaches a conclusion, that conclusion cannot be assailed in a review petition unless it is shown that there is an error apparent on the face of the record or for some reason akin thereto. It has not been contended before us that there is any error apparent on the face of the record. To permit the review petitioner to argue on a question of appreciation of evidence would amount to converting a review petition into an appeal in disguise.

10. Considering these judgments and considering the tenor of the order passed by this Court, it cannot be said that the Court has failed to consider any of the submission made at the bar by the petitioner. It is also fruitful to refer to recent judgment of Hon'ble Apex court in the matter of **Malleeswari Vs. K. Suguna reported in 2025 INSC 1080**. Para 16, 17, 17.1, 17.2 and 17.3 are required to be reproduced as under:-

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.⁸ Such an error is a patent error and not a mere wrong decision.⁹ 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.

In this matter the Hon'ble Apex court has observed the distinction between the power of review and appellate power.

11. It is also fruitful to refer to the judgment passed by Hon'ble Apex court in case of **Shri Ram Sahu (Dead) through LRs Vs. Vino Kumar Rawat** reported in (2021) 13 SCC 1, paras 6, 9, 10 and 11 of which read as under:-

6. By the impugned order the High Court in exercise of powers under Section 114 read with Order 47 Rule 1 CPC has allowed the review petition and has reviewed the judgment and order dated 10.12.2013 passed in First Appeal No.241 of 2005 insofar as deleting the observations made in Para 20 as regards the possession of the disputed property, which were in favour of the appellants – original plaintiffs. From the impugned order passed by the High Court, it appears that the High Court has deleted the observations made in para 20 as regards possession of the plaintiffs mainly/solely on the ground that the issue of possession was neither before the Learned Trial Court nor was it before the First Appellate Court and no such issue with respect to possession was framed by the Learned Trial Court. Therefore, the short question falls for consideration before this Court is, whether in the facts and circumstances of the case the High Court is justified in allowing the review application in exercise of powers under Section 114 read with Order 47 Rule 1 CPC on the aforesaid grounds?

9. What can be said to be an error apparent on the face of the proceedings has been dealt with and considered by this Court in the case of [T.C. Basappa vs. T.Nagappa](#), AIR 1954 SC 440. It is held that such an error is an error which is a patent error and not a mere wrong decision. In the case of [Hari Vishnu Kamath vs. Ahmad Ishaque](#), AIR 1955 SC 233, it is observed as under:

“23....It is essential that it should be something more than a mere error; it must be one which must be manifest on the face of the



record. The real difficulty with reference to this matter, however, is not so much in the statement of the principle as in its application to the facts of a particular case. When does an error cease to be mere error, and become an error apparent on the face of the record? Learned counsel on either side were unable to suggest any clear cut rule by which the boundary between the two classes of errors could be demarcated.”

9.1 In the case of [Parsion Devi vs. Sumitri Devi, \(Supra\)](#) in paragraph 7 to 9 it is observed and held as under:

7. It is well settled that review proceedings have to be strictly confined to the ambit and scope of Order 47 Rule 1 CPC. In [Thungabhadra Industries Ltd. v. Govt. of A.P.](#), this Court opined:

“11. What, however, we are now concerned with is whether the statement in the order of September 1959 that the case did not involve any substantial question of law is an ‘error apparent on the face of the record’. The fact that on the earlier occasion the Court held on an identical state of facts that a substantial question of law arose would not per se be conclusive, for the earlier order itself might be erroneous. Similarly, even if the statement was wrong, it would not follow that it was an ‘error apparent on the face of the record’, for there is a distinction which is real, though it might not always be capable of exposition, between a mere erroneous decision and a decision which could be characterised as vitiated by ‘error apparent’. *A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected, but lies only for patent error.*”

8. Again, in [Meera Bhanja v. Nirmala Kumari Choudhury](#), (1995) 1 SCC 170 while quoting with approval a passage from [Aribam Tuleswar Sharma v. Aribam Pishak Sharma](#) (supra) this Court once again held that 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 CPC.

9. Under Order 47 Rule 1 CPC a judgment may be open to review inter alia if there is a mistake or an error apparent on the face of the record. An error which is not selfevident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of the record justifying the court to exercise its power of review under Order 47 Rule 1 CPC. In exercise of the jurisdiction under Order 47 Rule 1 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”.

9.2 In the case of [State of West Bengal and Others vs. Kamal Sengupta and Anr.](#), (2008) 8 SCC 612, this Court had an occasion to consider what can be said to be “mistake or error apparent on the face of record”. In para 22 to 35 it is observed and held as



under:

“22. The term “mistake or error apparent” by its very connotation signifies an error which is evident per se from the record of the case and does not require detailed examination, scrutiny and elucidation either of the facts or the legal position. If an error is not selfevident and detection thereof requires long debate and process of reasoning, it cannot be treated as an error apparent on the face of the record for the purpose of Order 47 Rule 1 CPC or Section 22(3)(f) of the Act. To put it differently an order or decision or judgment cannot be corrected merely because it is erroneous in law or on the ground that a different view could have been taken by the court/tribunal on a point of fact or law. In any case, while exercising the power of review, the court/tribunal concerned cannot sit in appeal over its judgment/decision.

23. We may now notice some of the judicial precedents in which Section 114 read with Order 47 Rule 1 CPC and/or Section 22(3) (f) of the Act have been interpreted and limitations on the power of the civil court/tribunal to review its judgment/decision have been identified.

24. In *Rajah Kotagiri Venkata Subbamma Rao v. Rajah Vellanki Venkatrama Rao* (18991900) 27 IA 197 the Privy Council interpreted Sections 206 and 623 of the Civil Procedure Code and observed: (IA p.205)

“... Section 623 enables any of the parties to apply for a review of any decree on the discovery of new and important matter and evidence, which was not within his knowledge, or could not be produced by him at the time the decree was passed, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason. It is not necessary to decide in this case whether the latter words should be confined to reasons strictly ejusdem generic with those enumerated, as was held in *Roy Meghraj v. Beejoy Gobind Bural*, ILR (1875) 1 Cal 197. In the opinion of Their Lordships, the ground of amendment must at any rate be something which existed at the date of the decree, and the section does not authorise the review of a decree which was right when it was made on the ground of the happening of some subsequent event.”

25. In *Hari Sankar Pal v. Anath Nath Mitter*, 1949 FCR 36 a five-Judge Bench of the Federal Court while considering the question whether the Calcutta High Court was justified in not granting relief to nonappealing party, whose position was similar to that of the successful appellant, held: (FCR p.48)

“That a decision is erroneous in law is certainly no ground for ordering review. If the court has decided a point and decided it erroneously, the error could not be one apparent on the face of the record or even analogous to it. When, however, the court disposes



of a case without advertent to or applying its mind to a provision of law which gives it jurisdiction to act in a particular way, that may amount to an error analogous to one apparent on the face of the record sufficient to bring the case within the purview of Order 47 Rule 1, Civil Procedure Code.”

26. In [Moran Mar Basselios Catholicos v. Mar Poulouse Athanasius](#) (supra) this Court interpreted the provisions contained in the Travancore Code of Civil Procedure which are analogous to Order 47 Rule 1 and observed:

“32. ... Under the provisions in the Travancore Code of Civil Procedure which is similar in terms to Order 47 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, least analogous to those specified in the rule’.”

27. In [Thungabhadra Industries Ltd. v. Govt. of A.P.](#) (supra) it was held that a review is by no means an appeal in disguise whereof an erroneous decision can be corrected.

28. In [Parsion Devi v. Sumitri Devi \(Supra\)](#) it was held as under: (SCC p. 716) “Under [Order 47 Rule 1 CPC](#) a judgment may be open to review inter alia if there is a mistake or an error apparent on the face of the record. An error which is not selfevident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of the record justifying the court to exercise its power of review under Order 47 Rule 1 CPC. In exercise of the jurisdiction under Order 47 Rule 1 CPC it is not permissible for an erroneous decision to be ‘reheard and corrected’. There is a clear distinction between an erroneous decision and an error apparent on the face of the record. While the first can be corrected by the higher forum, the latter only can be corrected by exercise of the review jurisdiction. A review petition has a limited purpose and cannot be allowed to be ‘an appeal in disguise’.”

29. In [Haridas Das v. Usha Rani Banik](#), (supra) this Court made a reference to the Explanation added to Order 47 by the Code of Civil Procedure (Amendment) Act, 1976 and held:



“13. In order to appreciate the scope of a review, Section 114 CPC has to be read, but this section does not even adumbrate the ambit of interference expected of the court since it merely states that it ‘may make such order thereon as it thinks fit’. The parameters are prescribed in Order 47 Rule 1 CPC and for the purposes of this lis, permit the defendant to press for a rehearing ‘on account of some mistake or error apparent on the face of the records or for any other sufficient reason’. The former part of the rule deals with a situation attributable to the applicant, and the latter to a jural action which is manifestly incorrect or on which two conclusions are not possible. Neither of them postulate a rehearing of the dispute because a party had not highlighted all the aspects of the case or could perhaps have argued them more forcefully and/or cited binding precedents to the court and thereby enjoyed a favourable verdict. This is amply evident from the Explanation to Rule 1 of Order 47 which states that the fact that the decision on a question of law on which the judgment of the court is based has been reversed or modified by the subsequent decision of a superior court in any other case, shall not be a ground for the review of such judgment. Where the order in question is appealable the aggrieved party has adequate and efficacious remedy and the court should exercise the power to review its order with the greatest circumspection.”

30. In [Aribam Tuleshwar Sharma v. Aribam Pishak Sharma \(Supra\)](#) this Court considered the scope of the High Courts’ power to review an order passed under [Article 226](#) of the Constitution, referred to an earlier decision in [Shivdeo Singh v. State of Punjab \(Supra\)](#) and observed: ([Aribam Tuleshwar](#) case (Supra), SCC p. 390, para 3)

“3. ... It is true as observed by this Court in [Shivdeo Singh v. State of Punjab \(Supra\)](#), there is nothing in [Article 226](#) of the Constitution to preclude a High Court from exercising the power of review which inheres in every court of plenary jurisdiction to prevent miscarriage of justice or to correct grave and palpable errors committed by it. But, there are definitive limits to the exercise of the power of review. The power of review may be exercised on the discovery of new and important matter or evidence which, after the exercise of due diligence was not within the knowledge of the person seeking the review or could not be produced by him at the time when the order was made; it may be exercised where some mistake or error apparent on the face of the record is found; it may also be exercised on any analogous ground. But, it may not be exercised on the ground that the decision was erroneous on merits. That would be the province of a court of appeal. A power of 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.”

31. In [K. Ajit Babu v. Union of India](#), (1997) 6 SCC 473, it was



held that even though Order 47 Rule 1 is strictly not applicable to the tribunals, the principles contained therein have to be extended to them, else there would be no limitation on the power of review and there would be no certainty or finality of a decision. A slightly different view was expressed in [Gopabandhu Biswal v. Krishna Chandra Mohanty](#), (1998) 4 SCC 447). In that case it was held that the power of review granted to the tribunals is similar to the power of a civil court under Order 47 Rule 1.

32. In [Ajit Kumar Rath v. State of Orissa](#), (1999) 9 SCC 596, this Court reiterated that power of review vested in the Tribunal is similar to the one conferred upon a civil court and held: (SCC p. 608, paras 3031) “30. The provisions extracted above indicate that the power of review available to the Tribunal is the same as has been given to a court under [Section 114](#) read with [Order 47 CPC](#). The power is not absolute and is hedged in by the restrictions indicated in Order 47. The power can be exercised on the application of a person on 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 order was made. The power can also be exercised on account of some mistake or error apparent on the face of the record or for any other sufficient reason. A review cannot be claimed or asked for merely for a fresh hearing or arguments or correction of an erroneous view taken earlier, that is to say, the power of review can be exercised only for correction of a patent error of law or fact which stares in the face without any elaborate argument being needed for establishing it. It may be pointed out that the expression ‘any other sufficient reason’ used in Order 47 Rule 1 means a reason sufficiently analogous to those specified in the Rule.

31. Any other attempt, except an attempt to correct an apparent error or an attempt not based on any ground set out in Order 47, would amount to an abuse of the liberty given to the Tribunal under the Act to review its judgment.”

33. In [State of Haryana v. M.P. Mohla](#), (2007) 1 SCC 457 this Court held as under: (SCC pp. 46566, para 27) “27. A review petition filed by the appellants herein was not maintainable. There was no error apparent on the face of the record. The effect of a judgment may have to be considered afresh in a separate proceeding having regard to the subsequent cause of action which might have arisen but the same by itself may not be a ground for filing an application for review.”

34. In [Gopal Singh v. State Cadre Forest Officers’ Assn.](#), (2007) 9 SCC 369 this Court held that after rejecting the original application filed by the appellant, there was no justification for the Tribunal to review its order and allow the revision of the appellant. Some of the observations made in that judgment are



extracted below: (SCC p. 387, para 40)

“40. The learned counsel for the State also pointed out that there was no necessity whatsoever on the part of the Tribunal to review its own judgment. Even after the microscopic examination of the judgment of the Tribunal we could not find a single reason in the whole judgment as to how the review was justified and for what reasons. No apparent error on the face of the record was pointed, nor was it discussed. Thereby the Tribunal sat as an appellate authority over its own judgment. This was completely impermissible and we agree with the High Court (Sinha, J.) that the Tribunal has travelled out of its jurisdiction to write a second order in the name of reviewing its own judgment. In fact the learned counsel for the appellant did not address us on this very vital aspect.”

35. The principles which can be culled out from the abovenoted judgments are:

(i) The power of the Tribunal to review its order/decision under Section 22(3)(f) of the Act is akin/analogous to the power of a civil court under [Section 114](#) read with [Order 47 Rule 1 CPC](#).

(ii) The Tribunal can review its decision on either of the grounds enumerated in Order 47 Rule 1 and not otherwise.

(iii) The expression “any other sufficient reason” appearing in Order 47 Rule 1 has to be interpreted in the light of other specified grounds.

(iv) An error which is not selfevident and which can be discovered by a long process of reasoning, cannot be treated as an error apparent on the face of record justifying exercise of power under [Section 22\(3\)\(f\)](#).

(v) An erroneous order/decision cannot be corrected in the guise of exercise of power of review.

(vi) A decision/order cannot be reviewed under [Section 22\(3\)\(f\)](#) on the basis of subsequent decision/judgment of a coordinate or larger Bench of the tribunal or of a superior court.

(vii) While considering an application for review, the tribunal must confine its adjudication with reference to material which was available at the time of initial decision.

The happening of some subsequent event or development cannot be taken note of for declaring the initial order/decision as vitiated by an error apparent.

(viii) Mere discovery of new or important matter or evidence is not sufficient ground for review. The party seeking review has also



to show that such matter or evidence was not within its knowledge and even after the exercise of due diligence, the same could not be produced before the court/tribunal earlier.”

10. To appreciate the scope of review, it would be proper for this Court to discuss the object and ambit of Section 114 CPC as the same is a substantive provision for review when a person considering himself aggrieved either by a decree or by an order of Court from which appeal is allowed but no appeal is preferred or where there is no provision for appeal against an order and decree, may apply for review of the decree or order as the case may be in the Court, which may order or pass the decree. From the bare reading of Section 114 CPC, it appears that the said substantive power of review under Section 114 CPC has not laid down any condition as the condition precedent in exercise of power of review nor the said Section imposed any prohibition on the Court for exercising its power to review its decision. However, an order can be reviewed by a Court only on the prescribed grounds mentioned in Order 47 Rule 1 CPC, which has been elaborately discussed hereinabove. An application for review is more restricted than that of an appeal and the Court of review has limited jurisdiction as to the definite limit mentioned in Order 47 Rule 1 CPC itself. The powers of review cannot be exercised as an inherent power nor can an appellate power can be exercised in the guise of power of review.

11. Considered in the light of the aforesaid settled position, we find that the High Court has clearly overstepped the jurisdiction vested in the Court under Order 47 Rule 1 CPC. No ground as envisaged under Order 47 Rule 1 CPC has been made out for the purpose of reviewing the observations made in para 20. It is required to be noted and as evident from para 20, the High Court made observations in para 20 with respect to possession of the plaintiffs on appreciation of evidence on record more particularly the deposition of the plaintiff (PW1) and his witness PW2 and on appreciation of the evidence, the High Court found that the plaintiff is in actual possession of the said house. Therefore, when the observation with respect to the possession of the plaintiff were made on appreciation of evidence/material on record, it cannot be said that there was an error apparent on the face of proceedings which were required to be reviewed in exercise of powers under Order 47 Rule 1 CPC. At this stage, it is required to be noted that even High Court while making observations in para 20 with respect to plaintiff in possession also took note of the fact that the defendant nos. 1 and 2 – respondents herein themselves filed an application being I.A. No.1267 of 2012 which was filed under Section 151 CPC for getting the possession of the disputed house from the appellants and the said application was dismissed as withdrawn. Therefore, the High Court took note of the fact that even according to the defendant nos. 1 & 2 the appellants were in possession of the disputed house. Therefore, in light of the fact



situation, the High Court has clearly erred in deleting para 20 in exercise of powers under Order 47 Rule 1 CPC more particularly in the light of the settled preposition of law laid down by this Court in the aforesaid decisions.

12. In view of this and considering the grounds raised in the present review petition and considering the language of review petition, the petitioner is praying for exercising power of appellate jurisdiction and not for review as such no apparent error is shown by the review petitioner which can be considered as apparent error on the face of record. It is now well settled law that in view of Section 154(3), 156(3) and Section 200 of Cr.P.C. observation of the court is made in accordance with law and also in consonance with material available on record. It is relevant to observe that after approaching police authorities by providing video recording and thereafter sending the register post within four days by the petitioner and thereafter filing petition on very next date sending communication to the authority itself speaks about the conduct and intention of the review petitioner. Therefore, in that background the order to hand over the investigation to CBI is not warranted as police authorities could not have sufficient time to investigate the matter and it cannot be said that the accused is Excise officer, on that ground, the investigation is required to be handed over to CBI. Though all these grounds are discussed in detail in the judgment in writ appeal therefore, there is no reason to discuss these grounds once again as above mentioned observation is made with a view to just to clarify the factual aspect as well as legal aspect in brief which are involved in the present proceedings and which were considered by the Division Bench of this Hon'ble court while deciding the writ appeal.



13. In view of the settled position of law and otherwise also on facts and considering the tenor of the judgment passed in writ appeal, more particularly provisions of Order 47 Rule 1 CPC no material error on face of the record is found. Other requirements are also not satisfied. The review petition is required to be dismissed and is hereby dismissed.

(SANDEEP N. BHATT)
JUDGE

BDJ

(JAI KUMAR PILLAI)
JUDGE