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

% *Judgment Delivered on: 06.04.2026*

+ W.P.(C) 952/2015

HAKIKAT RAI .....Petitioner

Through: Ms. Tasneem Ahmadi and Ms. Afnan,  
Advs.

versus

D.D.A. ....Respondent

Through: Mr. Ashim Vachher, Sr. Adv. with  
Mr. Vinayak Uniyal, Mr. Gaganmeet  
Singh Sachdeva and Ms. Saiba M.  
Rajpal, Advs. for DDA.

**CORAM:**

**HON'BLE MR. JUSTICE VIKAS MAHAJAN**

**JUDGMENT**

**VIKAS MAHAJAN, J**

**CM APPL. 56284/2025 (by respondent under Section 151 CPC seeking recall of judgment dated 07.10.2016)**

1. The present application has been filed by the respondent/DDA (hereinafter referred to as 'DDA') seeking recall of the judgment dated 07.10.2016 to the extent the same records that the ownership of the petitioner namely, Late Hakikat Rai *qua* 15 biswas each in two *khasra* nos. 215 (min.) and 216 (min.) of Village Hauz Rani, New Delhi is not in dispute.

2. The facts on which the relief has been predicated are that the captioned writ petition was filed by the petitioner seeking following reliefs:

*“(a) Grant a Writ of Mandamus or any other Writ in the nature of Mandamus directing the Respondents, their servants, agents and*



*assigns not to demolish the boundary walls of the Petitioner on Khasra Nos. 215 min & 216 min of Village Hauz Rani New Delhi.*

*(b) Issue of Writ of Mandamus or any other Writ in the nature of Mandamus directing the Respondents not to dispossess the Petitioner from Khasra Nos 215 min & 216 min of Village Hauz Rani New Delhi,”*

3. In the writ petition, it was alleged that Late Hakikat Rai was allotted 09 acres of land in various *khasra* numbers including *khasra* nos. 215 min. (0-15) and 216 min. (0-15) situated in Village Hauz Rani, New Delhi.

4. As evident from the above quoted prayer clause, the dispute in the writ petition was confined only to the land measuring 30 biswas i.e. 15 biswas each in *khasra* nos. 215 min. and 216 min. situated in Village Hauz Rani, New Delhi.

5. The petition was disposed of by the learned Single Judge of this Court wherein, on the basis of documents on record, it was recorded that the petitioner is the owner of 15 biswas each in *khasra* nos. 215 min. and 216 min. The Court further observed that since the exact location and extent of 215 min. and 216 min. is not known, therefore, the Court cannot arrive at a definite conclusion as to where the said land is situated. Accordingly, the Court closed the proceedings of the writ petition granting liberty to the petitioner to file appropriate proceedings in accordance with law for determining the exact location of the petitioner's said land. The relevant extract from the said decision reads thus:

*“2. Learned counsel for the petitioner states that the petitioner has been in possession of 15 biswas each in 215 Min. and 216 Min. of Village Hauz Rani, New Delhi since 1953.*

*3. Learned counsel for the respondent-DDA relies on the notification dated 22nd February, 1979 whereby 02 Bigha and 06*



*Biswa in 215 Min. as well as 02 Bigha and 03 Biswa in 216 Min., has been transferred to the DDA. The said notification is at pages 245-257 of the paper book.*

*4. This Court with the assistance of the parties has perused the paper book at length and finds that even according to the DDA, the petitioner has been in uninterrupted possession of the aforesaid land as an allottee since 1964-65. Even the documents furnished by the petitioner, namely, the letter issued by the Assistant Custodian (Rural) at page 22 of the paper book as well as the report of the Local Officer at page 24 of the paper book and the revenue record at pages 26-27 of the paper book have been authenticated by the Land and Building Department. Consequently, the ownership of the petitioner of 15 biswas each in 215 Min. and 216 Min. is not disputed.*

*5. However, this Court is not aware as to exact location and extent of 215 Min. and 216 Min. In the present proceedings, this Court cannot arrive at a definite conclusion as to where the 15 Biswa of land of the petitioner in 215 Min. and 216 Min. is situated.*

*6. Consequently, after recording that the petitioner is the owner of 15 Biswa each in 215 Min. and 216 Min., the present proceedings are closed and the petitioner is given liberty to file appropriate proceedings in accordance with law for determining the exact location of the petitioner's land.*

*7. Learned counsel for the petitioner states that the said alternative proceedings shall be filed within a period of six weeks.*

*8. Till the said alternative proceedings are concluded, both parties are directed to maintain status quo with regard to possession and construction in respect of 215 Min. and 216 Min. of Village Hauz Rani, New Delhi.*

*9. If the respondent intends to take any action against the unauthorized construction carried out by the petitioner, it shall be at liberty to do so in accordance with law. Rights and contentions even on this aspect are left open.*

*10. With the aforesaid observations, the present writ petition and pending application stand disposed of."*

*(emphasis supplied)*



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6. Mr. Ashim Vachher, learned Senior Counsel for the respondent/DDA has articulated the following grounds to seek recall and setting aside of the judgment dated 07.10.2016:

(i) The judgment dated 07.10.2016 declared the title of the petitioner over the land in question, which could not have been done in the writ jurisdiction. The Writ Court under Article 226 of the Constitution is not an appropriate forum for adjudication of property rights and disputes relating to the title. The reliance was placed on the decision in ***Rajesh Sharma vs. Government Boys Sr. Secondary School No.2, 2024 SCC OnLine Del 224.***

(ii) Some of the documents on which the judgment dated 07.10.2016 and the findings recorded therein are premised are in the nature of office noting which cannot be relied upon to claim any right over the property. In support of this contention, reliance has been placed on the following two decisions - (a) ***Sethi Auto Service Station vs. Delhi Development Authority, (2009) 1 SCC 180;*** and (b) ***Pimpri Chinchwad New Township Development Authority vs. Vishnudev Cooperative Housing Society, (2018) 8 SCC 215.***

(iii) The allegations of the petitioner that he was allotted land by virtue of some letters issued by the custodian of evacuee property cannot be the sole basis to declare the petitioner as the owner of the land in question, unless a title document viz. sale deed is executed. To buttress this contention, reliance was placed on the decision in ***Amar Singh vs. Custodian Evacuee Property Punjab, (1957) SCC OnLine SC 75.***

(iv) Merely because the name of the petitioner had been entered



into a *Jamabandi* / Revenue Records does not confer any title on him, in as much as, the title can only be conveyed through an appropriate registered sale deed. In support of this submission, reliance was placed on *Suraj Bhan vs. Financial Commissioner, (2007) 6 SCC 186* and in *Rajinder Singh Vs. State of Jammu & Kashmir, (2008) 9 SCC 368*.

7. It was also argued by Mr. Vachher that though there is delay in seeking recall of the judgment dated 07.10.2016, still a review can be sought of an order, if new facts or documents have been discovered, therefore, the review is not liable to be dismissed, even if filed belatedly. Elaborating on this submission, Mr. Vachher contends that *vide* Acquisition Offer Nos. 1027 and 1027-A dated 30.06.1960 and 09.11.1962, respectively, land measuring 376 *bighas* and 12 *biswas*, situated in Village Hauz Rani, was acquired by the Government under the Re-settlement of Displaced Persons (Land Acquisition) Act, 1948, and  *khasra* Nos. 215 and 216, Village Hauz Rani, New Delhi were also part of the said 376 *bighas* and 12 *biswas*. He submits that the said documents were not on record of this Court, when the judgment dated 07.10.2016 was passed.

8. He further submits that it was not brought to the notice of this Court on 07.10.2016 that by a notification dated 22.02.1979, which was subsequently published on 08.03.1979, the land measuring 30.65 acres was transferred and placed at the disposal of DDA by Ministry of Rehabilitation. Again  *khasra* nos. 215 and 216 were included in the said 30.65 acres of land transferred in favour of the DDA from the Ministry of Rehabilitation under the package deal.

9. Mr. Vachher submits that when the judgment dated 07.10.2016 was



passed, the above significant facts were not brought to the notice of the Court, and had the same been done, the said judgment would not have been passed by this Court.

10. He submits that subsequent to the said judgment another petition has been filed by Sh. Suresh Kumar Gulabani, son of Late Hakikat Rai, subsequent to the demise of his father, being W.P. (C) 842/2017 before this Court, which is still pending.

11. He submits that during the pendency of the said petition, officials of the DDA while reviewing various files pertaining to the property in question came across certain documents being  *khasra girdwari*  wherein  *khasra*  nos. 215 min and 216 min are shown to be owned by Government of India. Hence, the land in question is a government land over which Late Hakikat Rai had tried to encroach upon, and even his son Sh. Suresh Kumar Gulabani has filed a false and frivolous petition being W.P. (C) 842/2017.

12. Along with the application, DDA also sought to place on record all the above referred documents alleging that the learned counsel for the DDA who made the statement before the Court on 07.10.2016 was not aware of the documents which are now sought to be filed.

13. It is thus, urged by Mr. Vachher that the judgment dated 07.10.2016 be recalled to the extent the same records that there is no dispute on behalf of the applicant/DDA  *qua*  the ownership of Late Hakikat Rai over the land in question.

14. Having heard Mr. Ashim Vachher, learned Senior Counsel for the applicant/DDA, this Court finds that by way of present application prayer has been made to recall and set aside the judgment dated 07.10.2016, but law is well settled that a court may recall an order earlier made by it if – (i)



the proceedings culminating into an order suffer from the inherent lack of jurisdiction and such lack of jurisdiction is patent, (ii) there exists fraud or collusion in obtaining the judgment, (iii) there has been a mistake of the court prejudicing a party, or (iv) a judgment was rendered in ignorance of the fact that a necessary party had not been served at all or had died and the estate was not represented.<sup>1</sup> None of these circumstances exist in the present case, rather perusal of the application and grounds pleaded therein makes it plain that the applicant/DDA is essentially seeking review of the judgment dated 07.10.2016.

15. It is noteworthy that the said judgment was passed on 07.10.2016 but the application seeking review thereof has been filed on or about 01.09.2025, approximately 08 years after the said judgment was rendered, whereas ordinarily a review is to be filed within a period of 30 days. The inordinate delay of about 08 years has not been explained, and the only justification put forth is that officials of the DDA came across certain relevant documents only during the pendency of the writ petition being W.P (C) 842/2017. No details have been furnished as to which officials, and when did they come across the relevant documents, nor the inordinate delay in filing the review has been explained. Therefore, the review is liable to be dismissed on this ground alone.

16. Nonetheless, the Court proceeds to discuss the contentions raised by Mr. Vachher on merits, which must be put to test by examining the legal position that governs the power of review.

17. The power of review is not to be confused with the appellate power which enables the superior court to correct errors committed by a

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<sup>1</sup> Budhia Swain & Ors. v. Gopinath Deb & Ors., (1999) 4 SCC 396



subordinate court. A judgment may be open to review *inter alia* if there is mistake or 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.<sup>2</sup>

18. In *Kamlesh Verma v. Mayawati*, (2013) 8 SCC 320, the Hon'ble Supreme Court laid down the guiding principles for exercising the review jurisdiction under Order 47 Rule 1 CPC:

*“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” have been interpreted in Chhajju Ram v. Neki [(1921-22) 49 IA 144 : (1922) 16 LW 37 : AIR 1922 PC 112] and approved by this Court in Moran Mar Basselios Catholicos v. Most Rev. Mar Poulouse Athanasius [AIR 1954 SC 526 : (1955) 1 SCR 520] 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. [(2013) 8 SCC 337 : JT (2013) 8 SC 275]*

**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.**

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<sup>2</sup> Parsion Devi v. Sumitri Devi, (1997) 8 SCC 715



***(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.”***

(emphasis supplied)

19. It is trite law that the High Court while exercising its jurisdiction under Article 226 of the Constitution has the inherent power of review, but the same are circumscribed by definitive limits, as succinctly summarised by the Hon'ble Supreme Court in *Aribam Tuleshwar Sharma v. Aribam Pishak Sharma*, (1979) 4 SCC 389, in the following terms:

***“3. ....It is true as observed by this Court in Shivdeo Singh v. State of Punjab [AIR 1963 SC 1909] 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.”*

(emphasis supplied)

20. In *State of W.B v. Kamal Sengupta*, (2008) 8 SCC 612, the Hon’ble Supreme Court emphasised that where review is sought on the ground of discovery of new matter or evidence, the party seeking review has also to show that such additional matter or evidence was not within its knowledge and even after the exercise of due diligence, therefore, the same could not be produced before the Court earlier. The relevant observations from the said decision reads thus:

*“21. At this stage it is apposite to observe that where a review is sought on the ground of discovery of new matter or evidence, such matter or evidence must be relevant and must be of such a character that if the same had been produced, it might have altered the judgment. In other words, mere discovery of new or important matter or evidence is not sufficient ground for review ex debito justitiae. Not only this, **the party seeking review has also to show that such additional 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 earlier.**”*

(emphasis supplied)

21. In one of the recent decisions, *S. Madhusudhan Reddy vs. V. Narayana Reddy and Ors*, (2022) 17 SCC 255, the Hon’ble Supreme Court after examining the case law on the subject again summed up various principles governing the exercise of power of review in the following terms:

*”33. As can be seen from the above exposition of law, it has been consistently held by this Court in several judicial pronouncements that the Court's jurisdiction of review, is not the same as that of an appeal. **A judgment can be open to review if there is a mistake or***



*an error apparent on the face of the record, but an error that has to be detected by a process of reasoning, cannot be described as an error apparent on the face of the record for the Court to exercise its powers of review under Order 47 Rule 1CPC. In the guise of exercising powers of review, the Court can correct a mistake but not substitute the view taken earlier merely because there is a possibility of taking two views in a matter. A judgment may also be open to review when any new or important matter of evidence has emerged after passing of the judgment, subject to the condition that such evidence was not within the knowledge of the party seeking review or could not be produced by it when the order was made despite undertaking an exercise of due diligence. There is a clear distinction between an erroneous decision as against an error apparent on the face of the record. An erroneous decision can be corrected by the superior court, however an error apparent on the face of the record can only be corrected by exercising review jurisdiction. Yet another circumstance referred to in Order 47 Rule 1 for reviewing a judgment has been described as “for any other sufficient reason”. The said phrase has been explained to mean “a reason sufficient on grounds, at least analogous to those specified in the rule” (refer : Chhajju Ram v. Neki [Chhajju Ram v. Neki, 1922 SCC OnLine PC 11 : AIR 1922 PC 112] and Moran Mar Basselios Catholicos v. Mar Poulouse Athanasius [Moran Mar Basselios Catholicos v. Mar Poulouse Athanasius, (1954) 2 SCC 42 : (1955) 1 SCR 520 : AIR 1954 SC 526] ).”*

22. Now, coming back to the submissions of Mr. Vachher and examining the same in light of the legal position expounded in the above noted decisions, this Court finds that the grounds articulated by Mr. Vachher which have been crystallised in paragraph 6 above, are the grounds on merits of the case and the same were available to the respondent/DDA, even at the time of passing the judgment dated 07.10.2016, the review of which has been sought. It is not permissible to re-hear the original matter all over again and correct the decision, even if it is erroneous. Such power vests with a



superior Court and enables it to correct all errors committed by a subordinate Court. To put it differently, an order or decision or judgment cannot be reheard and corrected merely because it is erroneous in law or on the ground that a different view could have been taken by the Court on a point of fact or law; this exercise is within the domain of an Appellate Court.

23. The power of review can be exercised when there is an error apparent on the face of record, and not an error which has to be fished out and searched. It must be an error of inadvertence. If an error is not self-evident and detection thereof requires long debate and process of reasoning, it cannot be treated as an error apparent on the face of record. Having examined the submissions of Mr. Vachher enumerated in paragraph 6 above, this Court is of the view that no error, much less an error apparent on the face of records has been brought out by the DDA.

24. As regard the submission of Mr. Vachher that the documents now sought to be placed on record along with an application were not within the knowledge of the counsel of the DDA, who made statement on 07.10.2016 and the officials of the DDA came across certain relevant documents only during the pendency of the writ petition being W.P (C) 842/2017, suffice it to note that the judgment of which review has been sought was passed as early as on 07.10.2016. Further, the W.P.(C) 842/2017 has also been pending since the year 2017. The DDA can hardly be heard to state that the said documents were not known to them since the same were admittedly, available in their records for being produced before this Court prior to the passing of the judgment dated 07.10.2016.

25. It is not a case of the DDA that the said records were not in its custody or knowledge, and even after exercise of due diligence, the same



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could not be produced before the Court earlier. On the contrary, bereft of details, the DDA has vaguely pleaded in the application that the officials of the DDA came across certain relevant documents only during the pendency of the writ petition being W.P.(C) 842/2017, which is pending since the year 2017. This, in the considered opinion of the Court, does not satisfy the test for exercising the power of review.

26. Therefore, no ground is made out warranting exercising power of review jurisdiction. The application is accordingly, dismissed.

**VIKAS MAHAJAN, J**

**APRIL 06, 2026/dss**