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

Date of decision: 27.11.2026

\# **CNR No. DLHC013431642017**

\+ RC.REV. 374/2017

JAI PRAKASH JAIN & ORS .....Petitioners

Through: Mr. Shikhil Suri, Senior Advocate.

versus

AJAY SHARMA .....Respondent

Through: Mr. Kamran Malik, Advocate.

CORAM:
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR

% JUDGEMENT (Oral)

CM APPL. 81104/2026 (Ex. From filing certified copies of annexures)

1. Allowed, subject to all just exceptions.

2. The Application stands disposed of.

REVIEW PET. 563/2026 (U/O XLVII Rule 1 Seeking review of the judgment dt. 27.10.2026)

3. The present Review Petition has been instituted under Section 114 read with Order XLVII Rule 1 of the Code of Civil Procedure, 1908 ["**CPC**"], seeking review of the Judgment dated 27.10.2026 passed by this Court in the captioned Revision Petition.

4. Learned Senior Counsel appearing on behalf of the Review Petitioners submits that the grievance primarily concerns the direction contained in Paragraph 43 of the Judgment dated 27.10.2026 ["**Impugned Judgment**"], insofar as it pertains to the disbursement of

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the rental amounts deposited before this Court.

5. It is contended that the Review Petitioners are also co-owners of the subject property, though they were not impleaded as parties in the captioned Revision Petition. Consequently, it is urged that disbursement of the aforesaid amounts exclusively in favour of Respondent No. 1 would prejudice their alleged proprietary and consequential financial interests.

6. No other ground warranting review of the Impugned Judgment has been urged by learned Senior Counsel appearing on behalf of the Review Petitioners.

ANALYSIS:

7. This Court has heard learned Senior Counsel appearing on behalf of the Review Petitioners at considerable length and has perused the Review Petition along with the material placed on record.

8. At the outset, it would be apposite to delineate the contours of the jurisdiction exercised by a Court while considering a petition seeking review of its own judgment. Section 114 read with Order XLVII Rule 1 of the CPC confers a limited statutory power of review, exercisable only on the grounds specifically recognised therein, namely, discovery of new and important matter or evidence which, despite the exercise of due diligence, was not within the knowledge of the applicant or could not be produced at the time when the judgment was passed; a mistake or error apparent on the face of the record; or any other sufficient reason analogous to the aforesaid grounds.

9. The power of review is, therefore, not an extension of the appellate jurisdiction of the Court. It does not permit a party to seek a rehearing of the matter, a fresh appreciation of the material already

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considered, or a reconsideration of the conclusions arrived at merely because such conclusions are perceived to be erroneous or prejudicial to its interests. The jurisdiction is corrective and not appellate in nature, and can be invoked only where an error of the nature contemplated under Order XLVII Rule 1 CPC is demonstrably made out.

10. In this regard, this Court is guided by the principles enunciated by the Hon'ble Supreme Court in ***State of Telangana v. Mohd. Abdul Qasim***[1]**,** wherein the scope and limitations of the review jurisdiction have been comprehensively explained. The relevant observations are extracted hereinbelow:

> **"24.** Section 114 read with Order 47 Rule 1 CPC, 1908 is verbatim similar to Section 623 CPC, 1877, except for the Explanation to Order 47 Rule 1 which was added by way of an amendment in the year 1976. Section 114 CPC, 1908 speaks of the circumstances, instances and situations under which a review can be filed. The words "*as it thinks fit*" cannot be interpreted to mean anything beyond what is conferred under Order 47 Rule 1. In other words, Section 114 has to be read along with Order 47 Rule 1. While they are to be read together, Section 114 is more procedural, whereas Order 47 Rule 1 is substantially substantive.
>
> **25.** The words "*due diligence*", though one of fact, places onus heavily on the one who seeks a review. It has to be seen from the point of view of a reasonable and prudent man. Though an element of flexibility is given to any evidence or matter on its discovery, it has to be one which was not available to the court earlier. It could not have been produced despite due diligence, meaning thereby that it should have been available and, therefore, in existence at least at the time of passing the decree.
>
> **26.** Mistake or error apparent on the face of record would debar the court from acting as an appellate court in disguise, by indulging in a re-hearing. A decision, however erroneous, can never be a factor for review, but can only be corrected in appeal. Such a mistake or error should be self-evident on the face of record. The error should be grave enough to be identified on a mere cursory look, and an omission so glaring that it requires interference in the form of a review. Being a creature of the statute, there is absolutely

[1] (2024) 6 SCC 46

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no room for a fresh hearing. The court has got no role to involve itself in the process of adjudication for a second time. Instead, it has to merely examine the existence of an apparent mistake or error. Even when two views are possible, the court shall not indulge itself by going into the merits.

27. The material produced, at this stage, should be of such pristine quality which, if taken into consideration, would have the logical effect of reversing the judgment. Order 47 Rule 1CPC, 1908 indicates that power of review can be exercised by courts, in three different situations, but these occasions ought to be read in an analogous manner. In other words, they should be read in a manner to mean that a restrictive power has been conferred upon the court. As stated, the words "*for any other sufficient reason*" ought to be read in conjunction with the earlier two categories reiterating the scope. Being a judicial discretion, it has to be exercised with circumspection and on rare occasions. It is a power to be exercised by way of an exception, subject to the rigours of the provision.

28. A subsequent event *per se* cannot form the basis of a review. Clause (*c*) of Order 47 Rule 1CPC, 1908, clearly specifies that the important matter or evidence produced must have been available at the time when the decree was passed. This is a matter of rule. On a very rare occasion, an exception can be carved out. Such an exception can only be exercised when the said matter or evidence is of unimpeachable quality. It is not only a new matter or evidence that should be taken into consideration, but it should also be an important one.

29. While exercising the said power, the court has to first check the evidentiary value of such discovery, including the circumstances under which it emanated, particularly when it inherently lacks jurisdiction or the evidence cannot be made admissible in law and therefore, is not relevant. In such a circumstance, there is no question of proceeding further in deciding the review application.

Precedents

30. Now, we shall place on record decisions rendered by this Court on the above principle of law discussed by us.

Power of review is not to be confused with powers of the appellate court in appeal jurisdiction

31.*Aribam Tuleshwar Sharma* v. *Aribam Pishak Sharma* [*Aribam Tuleshwar Sharma* v. *Aribam Pishak Sharma*, (1979) 4 SCC 389] : (SCC p. 390, para 3)

> "3. The Judicial Commissioner gave two reasons for reviewing his predecessor's order. The first was that his predecessor had overlooked two important documents Exts. A/1 and A/3 which showed that the respondents were in possession of the sites even in the year 1948-49

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and that the grants must have been made even by then. The second was that there was a patent illegality in permitting the appellant to question, in a single writ petition, settlement made in favour of different respondents. We are afraid that neither of the reasons mentioned by the learned Judicial Commissioner constitutes a ground for review. It is true as observed by this Court in *Shivdeo Singh* v. *State of Punjab* [*Shivdeo Singh* v. *State of Punjab*, 1961 SCC OnLine SC 29 : 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)

Error apparent on the face of record

32.*Northern India Caterers (India) Ltd.* v. *State (UT of Delhi)* [*Northern India Caterers (India) Ltd.* v. *State (UT of Delhi)*, (1980) 2 SCC 167] : (SCC pp. 171-72, paras 8-9)

"*8. It is well settled that a party is not entitled to seek a review of a judgment delivered by this Court merely for the purpose of a rehearing and a fresh decision of the case. The normal principle is that a judgment pronounced by the Court is final, and departure from that principle is justified only when circumstances of a substantial and compelling character make it necessary to do so* : *Sajjan Singh* v. *State of Rajasthan* [*Sajjan Singh* v. *State of Rajasthan*, 1964 SCC OnLine SC 25, para 20 : AIR 1965 SC 845 : (1965) 1 SCR 933, 948] . For instance, if the attention of the Court is not drawn to a material statutory provision during the original hearing, the Court will review its judgment : *G.L. Gupta* v. *D.N. Mehta* [*G.L. Gupta* v. *D.N. Mehta*, (1971) 3 SCC 189 : 1971 SCC (Cri)

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279 : (1971) 3 SCR 748, 750] . The Court may also reopen its judgment if a manifest wrong has been done and it is necessary to pass an order to do full and effective justice : *O.N. Mohindroo* v. *Distt. Judge, Delhi* [*O.N. Mohindroo* v. *Distt. Judge, Delhi*, (1971) 3 SCC 5 : (1971) 2 SCR 11, 27] . Power to review its judgments has been conferred on the Supreme Court by Article 137 of the Constitution, and that power is subject to the provisions of any law made by Parliament or the rules made under Article 145. In a civil proceeding, an application for review is entertained only on a ground mentioned in Order 47 Rule 1 of the Code of Civil Procedure, and in a criminal proceeding on the ground of an error apparent on the face of the record (Order XL Rule 1, Supreme Court Rules, 1966). *But whatever the nature of the proceeding, it is beyond dispute that a review proceeding cannot be equated with the original hearing of the case, and the finality of the judgment delivered by the Court will not be reconsidered except "where a glaring omission or patent mistake or like grave error has crept in earlier by judicial fallibility"* : *Sow Chandra Kante* v. *Sk. Habib* [*Sow Chandra Kante* v. *Sk. Habib*, (1975) 1 SCC 674] .

9. Now, besides the fact that most of the legal material so assiduously collected and placed before us by the learned Additional Solicitor General, who has now been entrusted to appear for the respondent, was never brought to our attention when the appeals were heard, we may also examine whether the judgment suffers from an error apparent on the face of the record. *Such an error exists if of two or more views canvassed on the point it is possible to hold that the controversy can be said to admit of only one of them. If the view adopted by the Court in the original judgment is a possible view having regard to what the record states, it is difficult to hold that there is an error apparent on the face of the record*."

(emphasis supplied)

33.*Parsion Devi* v. *Sumitri Devi* [*Parsion Devi* v. *Sumitri Devi*, (1997) 8 SCC 715] : (SCC p. 719, paras 9-10)

"*9. Under Order 47 Rule 1CPC 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 1CPC. In exercise of the jurisdiction under Order 47 Rule 1CPC it is not permissible for an erroneous decision to be "reheard and*

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corrected". A review petition, it must be remembered has a limited purpose and cannot be allowed to be "an appeal in disguise".

10. Considered in the light of this settled position we find that Sharma, J. clearly overstepped the jurisdiction vested in the Court under Order 47 Rule 1CPC. The observations of Sharma, J. that "accordingly, the order in question is reviewed and it is held that the decree in question was of composite nature wherein both mandatory and prohibitory injunctions were provided" and as such the case was covered by Article 182 and not Article 181 cannot be said to fall within the scope of Order 47 Rule 1CPC. *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*. While passing the impugned order, Sharma, J. found the order in civil revision dated 25-4-1989 as an *erroneous* decision, though without saying so in so many words. Indeed, while passing the impugned order Sharma, J. did record that there was a mistake or an error apparent on the face of the record which was not of such a nature, "which had to be detected by a long-drawn process of reasons" and proceeded to set at naught the order of Gupta, J. However, mechanical use of statutorily sanctified phrases cannot detract from the real import of the order passed in exercise of the review jurisdiction. Recourse to review petition in the facts and circumstances of the case was not permissible. The aggrieved judgment-debtors could have approached the higher forum through appropriate proceedings to assail the order of Gupta, J. and get it set aside but it was not open to them to seek a "review" of the order of Gupta, J. on the grounds detailed in the review petition. In this view of the matter, we are of the opinion that the impugned order of Sharma, J. cannot be sustained and we accordingly accept this appeal and set aside the impugned order dated 6-3-1997."

(emphasis in original and supplied)

Meaning of the words "for any other sufficient reason" in Order 47 Rule 1CPC, 1908

34.*Chhajju Ram* v. *Neki* [*Chhajju Ram* v. *Neki*, 1922 SCC OnLine PC 11] : (SCC OnLine PC)

"*It will be observed that the question with which their Lordships have to deal is one concerned not with appeal to a Court of Appeal, but with review by the Court which had already disposed of the case. In England it is only under strictly limited circumstances that an application*

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for such a review can be entertained. In India, however, provision has for long past been made by legislation for review in addition to appeal. But as the right is the creation of Indian statute law, it is necessary to see what such statutory law really allows. The law applicable to the present case is laid down by Order 47 Rule 1 of the Code of Civil Procedure, 1908. This Rule is enacted in the following terms:

> '**1. *Application for review of judgment***.—(1) Any person considering himself aggrieved—
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> (*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 hereby 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.'

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If their Lordships felt themselves at liberty to construe the language of Order 47 of the Code of Civil Procedure, 1908 without reference to its history and to the decisions upon it, their task would not appear to be a difficult one. For it is obvious that the Code contemplates procedure by way of review by the Court which has already given judgment as being different from that by way of appeal to a Court of Appeal. The three cases in which alone mere review is permitted are those of new material overlooked by excusable misfortune, mistake or error apparent on the face of the record, or "any other sufficient reason". The first two alternatives do not apply in the present case, and the expression "sufficient", if this were all, would naturally be read as meaning sufficiency of a kind analogous to the two already specified, that is to say, to

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excusable failure to bring to the notice of the Court new and important matters, or error on the face of the record. But before adopting this restricted construction of the expression "sufficient", it is necessary to have in mind, in the first place, that the provision as to review was not introduced into the Code for the first time in 1908, but appears there as a modification of previous provision made in earlier legislation : and, in the second place, that the extent of the power of a court in India to review its own decree under successive forms of legislative provision has been the subject of a good deal of judicial interpretation, not, however, in all cases harmonious. That, the power given by the Indian Code is different from the very restricted power which exists in England appears plain from the decision in *Charles Bright & Co. Ltd.* v. *Sellar* [*Charles Bright & Co. Ltd.* v. *Sellar*, (1904) 1 KB 6 (CA)] , where the Court of Appeal discussed the history of the procedure in England and explained its limits.

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Their Lordships have examined numerous authorities, and they have found much conflict of judicial opinion on the point referred to. There is plainly no such preponderance of view in either direction as to render it clear that there is any settled course of decision which they are under obligation to follow. Some of the decisions in the earlier cases may have been influenced by the wider form of expression then in force, and these decisions may have had weight with the learned Judges who, in cases turning on the subsequent Code, had regarded the intention of the legislature as remaining unaltered. But their Lordships are unable to assume that the language used in the Codes of 1877 and 1908 is intended to leave open the questions which were raised on the language used in the earlier legislation. They think that Rule 1 of Order 47 must be read as in itself definitive of the limits within which review is today permitted, and that reference to practice under former and different statutes is misleading. So construing it they interpret the words "any other sufficient reason" as meaning a reason sufficient on grounds at least analogous to those specified immediately previously. Such an interpretation excludes from the power of review conferred the course taken by the second and third Division Bench, composed of Wilberforce, J., and Scott Smith, J., and by Wilberforce, J., and LeRossignol, J., respectively. The result is that the judgments given by these two Division Benches ought to

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be set aside, and that of the Bench of the Chief Court composed of Scott Smith, J., and Leslie Jones, J., restored, so that the suit will stand dismissed. The respondent-plaintiffs must pay the costs here and in the courts below."

(emphasis supplied)

Discovery of new matter or evidence

35.*State of W.B.* v. *Kamal Sengupta* [*State of W.B.* v. *Kamal Sengupta*, (2008) 8 SCC 612 : (2008) 2 SCC (L&S) 735] : (SCC p. 633, paras 21-22)

"*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.

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 self-evident 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 1CPC 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."

An order can be reviewed only on the prescribed grounds mentioned in Order 47 Rule 1CPC, 1908

36.*Shri Ram Sahu* v. *Vinod Kumar Rawat* [*Shri Ram Sahu* v. *Vinod Kumar Rawat*, (2021) 13 SCC 1 : (2023) 2 SCC (Civ) 686] : (SCC pp. 25-26, para 10)

"*10*. To appreciate the scope of review, it would be proper for this Court to discuss the object and ambit of Section 114CPC as the same is a substantive provision for review when a person considering himself aggrieved

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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 114CPC, it appears that the said substantive power of review under Section 114CPC 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 1CPC, 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 1CPC itself. The powers of review cannot be exercised as an inherent power nor can an appellate power be exercised in the guise of power of review.*"

(emphasis supplied)

Evidence cannot be reappreciated in review

37.*Kerala SEB* v. *Hitech Electrothermics & Hydropower Ltd.* [*Kerala SEB* v. *Hitech Electrothermics & Hydropower Ltd.*, (2005) 6 SCC 651] : (SCC p. 656, para 10)

"*10.* This Court has referred to several documents on record and also considered the documentary evidence brought on record. This Court on a consideration of the evidence on record concluded that the respondent had been denied power supply by the Board in appropriate time which prevented the respondent from starting the commercial production by 31-12-1996. This is a finding of fact recorded by this Court on the basis of the appreciation of evidence produced before the Court. *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*. The 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*

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> *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*."
>
> (emphasis supplied)"

11. The principles emerging from a catena of judicial precedents leave no manner of doubt that the jurisdiction under Order XLVII Rule 1 CPC is circumscribed by well-defined statutory limitations. The power is intended to correct an apparent and patent error, and not to provide an additional opportunity to a litigant to reopen issues which have already attained judicial determination. An error which can be established only by undertaking a fresh examination of the factual matrix, reassessing the material on record, or adjudicating between competing claims and interpretations would not constitute an error apparent on the face of the record.

12. Tested against the aforesaid principles, this Court finds that the grievance raised by the Review Petitioners does not disclose any ground warranting exercise of the review jurisdiction.

13. This Court is of the considered view that the disputes, if any, that are sought to resolved by way of the present Review Petition pertain to issues that are between the alleged co-owners of the property. These issues cannot form the subject matter of the present adjudication, and may, if so chosen and permissible, be raised in appropriate legal proceedings and cannot be decided by way of the present Review Petition.

14. The principal contention advanced on behalf of the Review Petitioners is that they are co-owners of the subject property and, consequently, have an independent claim to the rental amounts

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deposited before this Court. On this premise, it is contended that the direction for disbursement of the said amounts exclusively in favour of Respondent No. 1 is prejudicial to their interests. The relevant portion of the Impugned Judgment is reproduced hereinbelow:

> "43. Since the present Petition stands disposed of, the rent deposited in Court in respect to the present Petition, if any, shall be released in favour of the Respondent by the learned Registrar within a period of four (04) weeks from today."

15. The aforesaid contention, however, does not disclose any patent or self-evident error in the Impugned Judgment. The assertion of co-ownership, by itself, does not establish the extent of the respective rights, shares or entitlements of the persons claiming an interest in the subject property. Any determination of such rights would necessarily require examination of the underlying title documents, the nature of the asserted ownership and the respective claims of the persons concerned. These are matters which travel beyond the limited scope of the present review proceedings.

16. It is pertinent to observe that the present Revision Petition was not the forum for adjudication of the *inter se* proprietary rights of the persons claiming co-ownership in the subject property. Equally, the present Review Petition cannot be converted into proceedings for determination of such rights merely because the Review Petitioners seek to question the consequential direction concerning disbursement of the rental amounts. The question as to whether the Review Petitioners possess any independent right or entitlement to the said amounts, and, if so, to what extent, would have to be determined in appropriate proceedings, in accordance with law. This Court refrains from expressing any opinion on the merits of such claims. The remedy

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of review cannot be employed to enlarge the scope of the original proceedings or to undertake an adjudication of disputes which fall outside the controversy decided therein.

17. Significantly, the Review Petitioners have not demonstrated that the aforesaid aspect was overlooked in the Impugned Judgment in a manner which gives rise to an error apparent on the face of the record. The mere fact that the Review Petitioners perceive the direction concerning disbursement of the rental amounts to be prejudicial to their alleged interests, would not, without more, constitute a ground for review. A party cannot secure reconsideration of a concluded judgment by projecting a disputed claim of entitlement as an apparent error in the judgment.

18. This Court, therefore, finds that the Review Petitioners have failed to establish the existence of any new and important matter or evidence, any mistake or error apparent on the face of the record, or any other sufficient reason analogous thereto, as contemplated under Order XLVII Rule 1 CPC. In the absence of any such ground, no occasion arises for this Court to revisit or reopen the Judgment dated 27.10.2026, and the present Review Petition is accordingly dismissed.

19. The present Review Petition, along with pending Application(s), if any, stands disposed of in the above terms.

HARISH VAIDYANATHAN SHANKAR, J.

NOVEMBER 27, 2026/tk/ma

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