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

Date of decision: 27.11.2026

\# **CNR No. DLHC010479342026**

\+ RC.REV. 383/2026, CM APPL. 81629/2026 (For taking on record additional documentary evidence), CM APPL. 81630/2026 (Seeking urgent interim protection and stay) & CM APPL. 81631/2026 (Ex.)

SH N K GUPTA & ORS. .....Petitioners

Through: Mr. Abhijaat, Senior Advocate along with Mr. Manoj Dwivedi, Ms. Mannu Singh and Mr. Chirag Anand, Advocates.

versus

MUKUL GUNDHI .....Respondent

Through:

CORAM:
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR

% **JUDGEMENT (Oral)**

REVIEW PET. 573/2026 (Seeking review of the judgment dt. 27.10.2026)

1. 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 ["**Impugned Judgment**"] passed by this Court in the captioned Revision Petition. The reliefs sought in the Review Petition are extracted hereinbelow:

> "a. Review the judgment dated 27.10.2026 passed by this Hon'ble Court in RC.REV. 383/2026 titled N.K. Gupta & Ors. Vs. Mukul Gundhi thereby reconsider the revision petition in accordance with law after taking into

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consideration the aforesaid newly discovered material;

b. Permit the Petitioners to place on record and rely upon the registered Sale Deed dated 17.03.2025, registered on 18.03.2025, concerning Property No. 5/14, Roop Nagar, Delhi-110007, as additional documentary evidence;

c. Stay the operation and execution of the eviction order dated 15.05.2026 passed by the Learned ARC-02, Central District, Tis Hazari Courts, Delhi, in RC/ARC No. 478252/11, initiated vide execution petition bearing no. EX 3001/2026 and all consequential execution proceedings;

d. Pass an appropriate order directing that the Petitioners shall not be dispossessed from the tenanted premises during the pendency of the present Review Petition, subject to such terms and conditions as this Hon'ble Court may deem fit; and

e. Pass any other or further order(s) which this Hon'ble Court may deem fit and proper in the interest of justice."

2. Learned Senior Counsel appearing on behalf of the Review Petitioners submits that the present Review Petition is maintainable within the ambit of Order XLVII Rule 1 CPC, inasmuch as the Respondent had allegedly failed to disclose the acquisition of Property No. 5/14, Roop Nagar, Delhi-110007, during the pendency of the eviction proceedings. It is contended that the aforesaid property constitutes suitable alternative accommodation available to the Respondent and, therefore, its non-disclosure has a material bearing on the issue of bona fide requirement. Learned Senior Counsel submits that the Sale Deed, having now been discovered by the Review Petitioners, constitutes new and important evidence which warrants reconsideration of the Impugned Judgment.

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

ANALYSIS:

4. This Court has heard learned Senior Counsel appearing on

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behalf of the Review Petitioners at considerable length and has perused the Review Petition along with the material placed on record.

5. 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.

6. 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 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.

7. 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:

[1] (2024) 6 SCC 46

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"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 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

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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 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*

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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) 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] .

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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 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

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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 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—

(*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

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> 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.'

***

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 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

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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 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

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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 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.*,

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(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 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)"

8. 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.

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9. Tested against the aforesaid principles, the contention advanced on behalf of the Review Petitioners does not satisfy the requirements of Order XLVII Rule 1 CPC. The principal reliance is placed upon the Sale Deed dated 17.03.2025, registered on 18.03.2025, in respect of Property No. 5/14, Roop Nagar, Delhi-110007. It is sought to be contended that the acquisition of the aforesaid property by the Respondent constitutes an important circumstance which was not disclosed during the eviction proceedings and which, if considered, would have a bearing on the question of availability of suitable alternative accommodation.

10. In this regard, it is necessary to bear in mind that the issue of bona fide requirement in an eviction petition is ordinarily required to be examined with reference to the circumstances obtaining on the date of institution of the eviction proceedings. Subsequent events may undoubtedly be taken into consideration where they have a material bearing on the subsisting requirement of the landlord. However, such subsequent developments do not automatically displace an otherwise established bona fide requirement. The event relied upon must be of such a nature and magnitude as to completely eclipse or wholly satisfy the requirement pleaded by the landlord.

11. In ***Gaya Prasad v. Pradeep Srivastava***[2], the Hon'ble Supreme Court held that the crucial date for assessing *bona fide* requirement is ordinarily the date of the eviction petition, and that subsequent events displace the pleaded need only where their nature and magnitude completely eclipse that requirement. The relevant portion of the aforesaid Judgment is reproduced hereinbelow:

[2] (2001) 2 SCC 604

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"**10.**We have no doubt that the crucial date for deciding as to the bona fides of the requirement of the landlord is the date of his application for eviction. The antecedent days may perhaps have utility for him to reach the said crucial date of consideration. If every subsequent development during the post-petition period is to be taken into account for judging the bona fides of the requirement pleaded by the landlord there would perhaps be no end so long as the unfortunate situation in our litigative slow-process system subsists. During 23 years, after the landlord moved for eviction on the ground that his son needed the building, neither the landlord nor his son is expected to remain idle without doing any work, lest, joining any new assignment or starting any new work would be at the peril of forfeiting his requirement to occupy the building. It is a stark reality that the longer is the life of the litigation the more would be the number of developments sprouting up during the long interregnum. If a young entrepreneur decides to launch a new enterprise and on that ground he or his father seeks eviction of a tenant from the building, the proposed enterprise would not get faded out by subsequent developments during the traditional lengthy longevity of the litigation. His need may get dusted, patina might stick on its surface, nonetheless the need would remain intact. All that is needed is to erase the patina and see the gloss. It is pernicious, and we may say, unjust to shut the door before an applicant just on the eve of his reaching the finale, after passing through all the previous levels of the litigation, merely on the ground that certain developments occurred pendente lite, because the opposite party succeeded in prolonging the matter for such unduly long period.

11. We cannot forget that while considering the bona fides of the need of the landlord the crucial date is the date of petition. In ***Ramesh Kumar* v. *Kesho Ram***[1992 Supp (2) SCC 623] a two-Judge Bench of this Court (M.N. Venkatachaliah, J., as he then was, and N.M. Kasliwal, J.) pointed out that the normal rule is that rights and obligations of the parties are to be determined as they were when the lis commenced and the only exception is that the court is not precluded from moulding the reliefs appropriately in consideration of subsequent events provided such events had an impact on those rights and obligations. What the learned Chief Justice observed therein is this: (SCC pp. 626-27, para 6)

> "*6.* The normal rule is that in any litigation the rights and obligations of the parties are adjudicated upon as they obtain at the commencement of the lis. But this is subject to an exception. Wherever subsequent events of fact or law which have a material bearing on the entitlement of the parties to relief or on aspects which bear on the moulding of the relief occur, the court is not precluded from taking a 'cautious cognizance' of the subsequent changes of fact and law to mould the relief."

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12. This Court reiterated the same principle in ***Kamleshwar Prasad* v. *Pradumanju Agarwal*** [(1997) 4 SCC 413] that the crucial date normally is the date of filing the petition. In that case, a two-Judge Bench (K. Ramaswamy and G.B. Pattanaik, JJ.) has held that even the subsequent event of death of the landlord who wanted to start a business in the tenanted premises is not sufficient to dislodge the bona fide need established by him earlier. This is what Pattanaik J. has observed for the Bench: (SCC p. 415, para 3)

> "That apart, the fact that the landlord needed the premises in question for starting a business which fact has been found by the appellate authority, in the eye of the law, it must be that on the day of application for eviction which is the crucial date, the tenant incurred the liability of being evicted from the premises. Even if the landlord died during the pendency of the writ petition in the High Court the bona fide need cannot be said to have lapsed as the business in question can be carried on by his widow or any other son."

13. In our opinion, the subsequent events to overshadow the genuineness of the need must be of such nature and of such a dimension that the need propounded by the petitioning party should have been completely eclipsed by such subsequent events. A three-Judge Bench of this Court in ***Pasupuleti Venkateswarlu* v. *Motor and General Traders*** [(1975) 1 SCC 770] which pointed to the need for remoulding the reliefs on the strength of subsequent events affecting the cause of action in the field of rent control litigation, forewarned that cognizance of such subsequent events should be taken very cautiously. This is what learned Judges of the Bench said then: (SCC pp. 772-73, para 4)

> "We affirm the proposition that for making the right or remedy claimed by the party just and meaningful as also legally and factually in accord with the current realities, the court can, and in many cases must, take cautious cognizance of events and developments subsequent to the institution of the proceeding provided the rules of fairness to both sides are scrupulously obeyed."

14. The next three-Judge Bench of this Court, which approved and followed the above decision, in ***Hasmat Rai* v. *Raghunath Prasad*** [(1981) 3 SCC 103] has taken care to emphasise that the subsequent events should have "wholly satisfied" the requirement of the party who petitioned for eviction on the ground of personal requirement. The relevant passage is extracted below: (SCC pp. 113-14, para 14)

> "Therefore, it is now incontrovertible that where possession is sought for personal requirement it would be correct to say that the requirement pleaded by the landlord must not only exist on the date of the action but must subsist till the final decree or an order for eviction is made.

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> *If in the meantime events have cropped up which would show that the landlord's requirement is wholly satisfied then in that case his action must fail and in such a situation it is incorrect to say that as decree or order for eviction is passed against the tenant he cannot invite the court to take into consideration subsequent events*."
>
> (emphasis supplied)
>
> **15.**The judicial tardiness, for which unfortunately our system has acquired notoriety, causes the lis to creep through the line for long long years from the start to the ultimate termini, is a malady afflicting the system. During this long interval many many events are bound to take place which might happen in relation to the parties as well as the subject-matter of the lis. If the cause of action is to be submerged in such subsequent events on account of the malady of the system it shatters the confidence of the litigant, despite the impairment already caused."

12. The aforesaid position has recently been reiterated by the Hon'ble Supreme Court in ***M/s. P.M. Shah and Co. v. Asmit Vijay Vedak & Ors.***[3], wherein it has been held that subsequent acquisition of alternative accommodation or arrangements made during the prolonged pendency of eviction proceedings cannot, by themselves, be construed as extinguishing the landlord's bona fide requirement. The Hon'ble Supreme Court emphasised that every subsequent development does not warrant displacement of an otherwise established requirement and that such an event must be genuine, material and have a direct bearing on the original cause of action. The Court further cautioned against permitting a tenant to take advantage of the delay occasioned by prolonged litigation to defeat an otherwise sustainable claim for eviction. The relevant portion of the aforesaid Judgment is reproduced hereinbelow:

> "**27.** The principle enunciated in ***Kedar Nath Agrawal*** (supra) does not require courts, at every subsequent stage of litigation, to reassess the circumstances merely to examine whether the tenant can avoid eviction. The doctrine is not intended to afford a tenant

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an opportunity to defeat an otherwise established claim by relying upon changes that are, in substance, a consequence of the very delay in adjudication. The High Court's reliance upon the fact that the legal representatives of the partners had secured alternative accommodation for themselves and their families, without examining the circumstances in which such arrangements were made, was therefore misplaced.

28. A question that naturally arises is therefore, when a landlord has succeeded before the courts below in eviction proceedings that have remained pending for over two decades, can the alternative arrangements made by the landlord, out of necessity during the prolonged course of litigation, be used to deny the very relief sought on the ground of *bona fide requirement*? In our considered view, the answer must be in the negative. Such arrangements, by themselves, cannot be construed as extinguishing the original requirement. Rather, they may well be indicative of the hardship occasioned by the prolonged denial of possession.

29. We may clarify that the principle in ***Kedar Nath Agrawal*** (supra), permitting courts to take subsequent events into account before final adjudication, is not an inflexible rule requiring consideration of every intervening development. It is a judicially evolved principle intended to prevent multiplicity of proceedings, shorten litigation and enable courts to do complete justice between the parties. The circumstances identified therein are illustrative and must be applied with due regard to the nature of the subsequent event and its bearing on the original cause of action.

30. In paragraph 16, this Court had observed: -

> "16. ... A court of law may take into account subsequent events *inter alia* in the following circumstances:
>
> (i) the relief claimed originally has by reason of subsequent change of circumstances become inappropriate; or
>
> (ii) it is necessary to take notice of subsequent events in order to shorten litigation; or
>
> (iii) it is necessary to do so in order to do complete justice between the parties."

31. These circumstances, though illustrative, cannot be treated as unrestricted grounds for taking cognizance of subsequent events. Any such event must be genuine and material, and must have a direct bearing on the original cause of action or the relief claimed. More importantly, a party cannot be permitted to take advantage of the mere passage of time or of arrangements necessitated by prolonged litigation to defeat an otherwise sustainable claim.

The doctrine is intended to facilitate effective adjudication and enable the Court to mould relief, where necessary, and not to allow the very delay in adjudication to become a ground for denying the relief originally sought.

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32. Turning to the facts of the present case, the appellant-firm had specifically pleaded that the subject premises were reasonably and *bona fide* required to meet the residential needs of both its partners and their respective families, as well as their medical needs. In these circumstances, the High Court, while exercising revisional jurisdiction, erred in placing undue reliance on subsequent arrangements made by the partners' families, out of necessity during the prolonged pendency of the proceedings, to defeat the landlord's claim for recovery of possession. The High Court also failed to adequately consider the advancing age and medical condition of the partners, both of whom had undergone surgical procedures and had been advised by their doctors to avoid climbing stairs. It would be wholly unjustified to expect the landlords to continue enduring such hardship and to climb additional floors to access their own property, when the very purpose of seeking eviction was to secure accommodation better suited to their age, health and residential requirements.

Conclusions: -

33. In view of the foregoing discussion, our conclusions may be summarised as follows: -

i. The *bona fide* requirement of the appellant-firm was founded upon the needs of both its partners and their respective families and could not be confined solely to the requirement of the second partner, Mangilal Jain, and his wife.

ii. The subsequent demise of the second partner, Mangilal Jain, and his wife could not, by itself, extinguish the entire claim for eviction, particularly when the independent requirement of the other partner, Premchand Shah, and his family remained to be considered.

iii. The dissolution of the appellant-firm or the acquisition of alternative accommodation during the pendency of prolonged litigation could not, by itself, defeat the eviction claim. The effect of such events must be examined in the light of the applicable statutory provisions and the circumstances in which they occurred.

iv. The principle in ***Kedar Nath Agrawal*** (supra) does not warrant consideration of every subsequent event indiscriminately. Such an event must be genuine, material and have a direct bearing on the original cause of action or the relief claimed. It cannot be used to defeat an otherwise sustainable claim merely on account of the passage of time.

34. The impugned judgment dated 2nd January, 2024, passed by the High Court of Bombay in Civil Revision Application No. 486 of 2022 is accordingly, set aside. The decree of eviction dated 2nd May, 2014, passed by the Trial Court and affirmed by the Appellate Court is restored.

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35. Consequently, the present appeal stands allowed."

13. Applying the aforesaid principles to the facts of the present case, this Court finds that the mere existence of the Sale Deed dated 17.03.2025 does not, by itself, establish that the bona fide requirement of the Respondent stood extinguished or completely satisfied. The acquisition of another property and the availability of suitable alternative accommodation are not necessarily interchangeable propositions. Consequently, the mere factum of acquisition, without more, cannot be treated as conclusive proof that the requirement forming the basis of the eviction proceedings ceased to exist, i.e., that the said acquisition has "wholly satisfied" the original requirement.

14. More importantly, the determination of whether the aforesaid property constitutes suitable alternative accommodation would necessarily require an examination of the nature of the property, its availability and its suitability in the factual context of the Respondent's pleaded requirement. Such an exercise would entail an appreciation of evidence and adjudication of factual issues. This Court, while exercising review jurisdiction, cannot embark upon such an exercise as though it were reconsidering the Revision Petition on merits.

15. There is yet another material aspect which militates against the maintainability of the present Review Petition on the ground urged. Admittedly, the Sale Deed sought to be relied upon was executed on 17.03.2025 and registered on 18.03.2025, whereas the eviction order itself came to be passed on 15.05.2026. Thus, the document was already in existence not only during the pendency of the proceedings before the learned ARC but also when the eviction order was passed.

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It continued to be in existence when the present Revision Petition was adjudicated by this Court and the Impugned Judgment was pronounced on 27.10.2026.

16. In such circumstances, the Review Petitioners were required to specifically demonstrate the circumstances in which the document came to their knowledge, the efforts undertaken to discover or obtain the same, and the reasons which prevented them from placing it before the appropriate forum at the relevant stage. The mere description of the document as *"newly discovered"* cannot dispense with the statutory requirement of establishing due diligence. The burden under Order XLVII Rule 1 CPC is not discharged merely by asserting that a document was not previously brought on record. The applicant must demonstrate that, despite taking reasonable and diligent steps, the material could neither have been discovered nor produced when the matter was being considered.

17. In the present case, no satisfactory explanation has been furnished to establish the aforesaid requirements. In the absence of any such explanation, the requirement of due diligence, which constitutes an essential precondition for invoking the ground of discovery of new and important evidence, remains unfulfilled.

18. It is also significant that the judgment under review was rendered in exercise of the limited revisional jurisdiction vested in this Court under the applicable provisions of the Delhi Rent Control Act, 1958. The scope of such jurisdiction cannot be enlarged by introducing, through a Review Petition, an additional factual ground which was not the subject matter of consideration in the original proceedings. The Review Petitioners cannot seek to achieve, by way

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of review, what would in substance amount to a fresh adjudication of the Revision Petition on the basis of additional material. The jurisdiction exercised by this Court in review is distinct from its revisional jurisdiction, and the former cannot be employed as a means to reopen the latter.

19. This Court is, therefore, of the considered view that the material now sought to be introduced does not disclose any error apparent on the face of the record in the Impugned Judgment, nor has it been demonstrated to constitute new and important evidence which could not have been produced earlier despite due diligence. The grounds urged would, at best, require a fresh examination of the factual aspects of the dispute and a reconsideration of the conclusions already arrived at. Such an exercise is impermissible within the limited confines of review jurisdiction.

20. In view of the foregoing discussion, this Court finds that the Review Petitioners have failed to establish any of the grounds contemplated under Order XLVII Rule 1 CPC warranting interference with the Impugned Judgment. Accordingly, the present Review Petition, being devoid of merit, stands dismissed.

21. 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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