



\$~1 (Appellate Side)

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

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Date of Decision: 10.10.2025

+ **FAO 93/2025**

R.K. JAIN

.....Appellant

Through: Appellant in person

versus

SURAJ SUNAR & ORS.

.....Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE TEJAS KARIA

TEJAS KARIA, J. (ORAL)

CM No. 63767/2025 (Delay)

1. For the reasons stated in the Application, the same is allowed. The delay of 18 days in filing the Review Petition is condoned.
2. The Application stands disposed of.

REVIEW PETITION NO. 513/2025

3. The Appellant has filed the present Review Petition under Order XLVII Rule 1 of the Code of Civil Procedure, 1908 ("CPC") for review of the judgment dated 25.06.2025 ("**Judgment**") passed in FAO 93/2025.
4. The Appellant appeared in-person and made the following submissions:

4.1. In Paragraph No. 29 of the Judgement, it is erroneously recorded



that the Impugned Order was passed “*after two years*” of filing the suit being CS No. 201/21 titled “*R.K. Jain v. Suraj Sunar and Ors.*” (“**Suit**”) as the Suit was instituted on 04.03.2021 and came to be rejected on 10.05.2024 on the ground of lack of territorial jurisdiction and, therefore, the Impugned Order was passed after three years and not two years as erroneously recorded in the Judgment.

4.2. The rejection of the Suit after three years could not be termed as “*...was passed at the earliest opportunity...*” as observed in Paragraph No. 29 as the issue of territorial jurisdiction came up at the very outset when the plaint was admitted for hearing on 04.03.2021 as it was apprised to the learned District Judge-04, Shahdara District, Karkardooma Courts, Delhi (“**Trial Court**”) that the Suit had been initially filed in Haryana.

4.3. The delay in passing the Impugned Order is contrary to the decision of the Supreme Court in ***Harshad Chiman Lal Modi v. DLF Universal Limited***, 2005 7 SCC 791, and the decision of this Court in ***Shoreline Infrastructure Developers Ltd. v. State***, 2012 SCC Online Del 10163, wherein this Court categorically held that objection regarding lack of territorial jurisdiction shall be raised at the first instance and such objection cannot be taken at a subsequent stage.

4.4. The loan had been extended to the Respondents, namely, Smt. Krishna @ Gita Sunar when she was working as a domestic help to the mother of the Appellant at Haryana, and following the death of his mother in June 2017, the Appellant continued to reside in his permanent residence at Delhi, which address is also recorded in the promissory



note executed by the Respondents, having no permanent residence / property in Haryana, and only on account of pending pensionary dues of his late mother, which were being denied *malafidely*.

4.5. The Appellant had filed a Suit for Recovery initially in Haryana, which was withdrawn thereafter and was allowed to be filed in Delhi *vide* order dated 04.03.2021 as recorded in Paragraph No. 5 of the Judgment. The Appellant relied on the decision in **ONGC v. Utpal Kumar Basu**, (1994) 4 SCC 711, quoted in Paragraph No. 16 of the Judgment, wherein this Court held that *bona fide* litigants should not be harassed over jurisdiction issues, however no finding / observation has been forthcoming returned in the Judgment on this aspect.

4.6. The Appellant had orally submitted before the learned Trial Court that part of the loan was extended in the Delhi residence, which has been recorded in the order dated 14.02.2024. While making this submission the Appellant relied on the decision of the Supreme Court in **In Re: Contempt Petition, Sanjib Dutta & Ors.**, 1995 (3) SCC 619, wherein the Supreme Court held that oral submissions are as good as written submissions. Hence, part of the cause of action arose at Delhi, and the Respondents would have full opportunity to contest the same at trial. It is settled law that no act of any court is to harm any litigant, as held by the Supreme Court in **Jang Singh v. Brijlal**, AIR 1963 SC 1631.

4.7. No finding / observation has been returned in the Judgement regarding the decision in **Atul Anand v. Nanak Food Industries**, 2006 SCC Online Del 851, although the same is preferred in Paragraph No.



15 of the Judgment. The Appellant had relied upon the said decision to submit that Haryana was a temporary residence, where the Appellant was only visiting from time to time from Delhi, which was a permanent residence to ensure the welfare of his widow mother, and thereby the permanent address as also recorded in the promissory note would be assumed to be the address, at which the loan re-payment was / is to be made by the Respondents.

4.8. The observations made in Paragraph No. 21 of the Judgment *qua* limitation are at variance from the factual position, as also pleaded in the Appeal. The Appellant relied on the decision of the Supreme Court in ***Sagufa Ahmed v. Upper Assam Plywood Products Pvt Ltd***, (2021) 2 SCC 317, the Supreme Court held that the orders passed for extending limitation in the wake of the Corona pandemic, were intended to benefit only those litigants who were prevented from initiating proceedings within the period of limitation prescribed by general or special law, and further clarified that for matters wherein statutory deadline stood prescribed for complying the judicial process, the same could not be covered under such relaxation, i.e., the extension granted was only for instituting fresh proceedings. In the present case, Respondents were to have appeared within the prescribed ten days, but appeared after ten days as per the Postal Tracking Report *qua* date of service of Summons, moreover since fraud unravels everything, the fraudulent act of false Affidavit filed by the Respondents disqualifies their appearance, irrespective of whether timely or untimely.

4.9. This Court ought to have taken into account the contemptuous



and fraudulent conduct of the Respondents, who indulged in perjury by filing a false Affidavit *qua* the date of service of Summons and falsified the Postal Tracking Report furnished by the Respondents before the learned Trial Court. Hence, the Respondents, who filed the false Affidavit could not be allowed any relief from any Court for not approaching the Court with clean hands as per the settled law as laid down by the Supreme Court in ***Ramjas Foundation v. Union of India***, 1993 Supp (2) SCC 20.

4.10. The Supreme Court has categorically held in the case of ***In Re: Contempt Petition Sanjib Dutta and Ors.***, 1995 (3) SCC 619, that not only the author of an offensive document, but even the person who files it into the Court, are both liable to be punished in equal measure.

5. The Appellant further submitted that if the present Review Petition fails the time for filing and deciding the Review Petition be also directed to be excluded from the period of limitation in addition to the time spent before this Court in the Appeal as directed in Paragraph No. 32 of the Judgment.

6. The Appellant also submitted that the direction for issuance of certificate for refund of Court Fees is absent in the Judgment and the same may also be kindly added in the Judgment if the present Review Petition fails.

7. In view of the above, the Appellant has prayed that the present Review Petition be allowed and in any case directions be issued (i) for excluding the time spent before this Court for pursuing the remedy of review of the Judgment be excluded from the period of limitation if the Appellant files the Suit before an appropriate Court having jurisdiction and; (ii) for refund of Court Fees.



ANALYSIS AND FINDINGS

8. *Vide* Judgment the Appeal of the Appellant was dismissed, while observing that:

“27. *The Appellant has wrongly interpreted Section 20 of the CPC and sought the jurisdiction of the learned Trial Court on the ground that he is a resident of Delhi. The CPC does not confer the jurisdiction on a Court based on the place of residence of the plaintiff. It is trite law that the territorial jurisdiction as per Section 20 of the CPC lies with the Court where the defendant either resides or works for gain or where the cause of action arises. None of the conditions are satisfied in the present case.*

28. *The mere fact that the promissory note mentions the address of the Appellant in Delhi would not confer jurisdiction upon the Courts in Delhi. The Appellant’s assertion that it was implicit that the part payment would have to be made in Delhi is unsubstantiated and not evident from the evidence on record. Since the promissory note was executed in Jind, Haryana, it cannot be assumed that the Respondents would have to return the amount in Delhi. It is also clear that the promissory note does not mention that the money shall be returned in Delhi. The cause of action arose at the place where the promissory note was signed and executed. Therefore, Appellant’s place of residence is immaterial in determining the territorial jurisdiction of the Court concerned.*

29. *The Appellant contends that any objection to the territorial jurisdiction of the Court was to be raised at the first instance or at the earliest opportunity. Although the Impugned Order was passed after two years of filing of the Suit, the same was passed at the earliest opportunity.*

30. *The reliance on **Copenhagen Hospitality** (supra), is also misplaced in the present factual matrix. While it is well-established that the issue of jurisdiction is to be determined based on the averments and documents filed in the suit, there is no evidence on record that satisfied that the learned Trial Court had the territorial jurisdiction to entertain and decide the Suit. Admittedly, the promissory note was executed in Jind, Haryana, and there is no averment or evidence produced by the Appellant to show that the part of cause of action arose in Delhi.*



31. *Even though the Appellant has the right to choose his choice of Court when the jurisdiction lies before more than one Court, in the present case, there is a lack of inherent jurisdiction with the learned Trial Court. As there was no cause of action within the territorial jurisdiction of the learned Trial Court, merely because the Appellant resides within the jurisdiction of the learned Trial Court, it would not confer the jurisdiction to the learned Trial Court if the Respondents do not reside, work for gain or if no part of the cause of action arose within the jurisdiction of the learned Trial Court.*

32. *Therefore, there is no merit in the present Appeal as there is no infirmity with the Impugned Order. Accordingly, this Appeal is dismissed. All pending Application(s) stand disposed of. It is, however, clarified that if the Appellant chooses to file the suit before an appropriate court having jurisdiction to decide the suit, the time spent before this Court in this Appeal shall be excluded from computation of period of limitation.”*

9. The Appellant has sought to reargue the Appeal by raising the same arguments that have been considered in the Judgment. It is a settled position of law that the scope and ambit of the power under Section 114 read with Order XLVII Rule 1 of CPC is very limited and the review is permissible only if there is a discovery of new and important matters or evidence, which after the exercise of the due diligence was not within the knowledge of the applicant or there is some mistake or error apparent on the face of the record.

10. It is also settled law that an error apparent on the face of the record must be such an error which may strike one on a mere looking at the record and would not require any long-drawn process of reasoning. Where an alleged error is far from self-evident and has to be detected by a process of reasoning after lengthy and complicated arguments, it can hardly be said to be an error apparent on the face of the record justifying the Court to exercise its power of review.

11. It is not permissible for an erroneous decision to be ‘reheard and



corrected’. A review petition has a limited purpose and cannot be allowed to be ‘an appeal in disguise’. It is well established that the power of review can be exercised for correction of a mistake but not to substitute a view. The ground of ‘any other sufficient reason’ provided in Order XLVII Rule 1 of the CPC has to be a reason sufficient on the grounds that are at least analogous to those specified in the said Rule. There is no doubt that the Court while exercising the power of review does not sit in appeal over its own order as rehearing of the matter is impermissible in law. Once a judgment is signed and pronounced, it should not be altered and the exercise of inherent jurisdiction cannot be invoked for reviewing any order beyond the limited scope and ambit prescribed under law for review.

12. As regards the submission of the Appellant that in Paragraph No. 29 of the Judgment there is an error in recording the number of years while the Suit was pending, the same is an error apparent on the face of the record and, therefore, Paragraph No. 29 is modified to read as under:

“29. The Appellant contends that any objection to the territorial jurisdiction of the Court was to be raised at the first instance or at the earliest opportunity. Although the Impugned Order was passed after three years of filing of the Suit, the same was passed at the earliest opportunity”

13. As regards the submission of the Appellant that the observation in Paragraph No. 29 that the Impugned Order rejecting the Suit on the ground of jurisdiction was passed at an earliest opportunity and the same being contrary to the decisions in ***Shoreline Infrastructure*** (supra) and ***Harshad Jiman Lal Modi*** (supra), Paragraph No. 12 of the Judgment already records the said submission of the Appellant and the same was considered in Paragraph No. 29 of the Judgment.



14. As regards the submission of the Appellant regarding the residence of the Respondents and the Appellant and reliance upon decision of *Atul Anand* (supra), the same has been considered in Paragraph Nos. 15 and 26 of the Judgment.

15. The Judgment also considered the decision in *ONGC* (supra) in Paragraph No. 16 of the Judgment. Further, the submission of the Appellant that the Appellant had orally submitted before the learned Trial Court that the part of loan was extended in Delhi residence which has been recorded in the order dated 14.02.2024 and the reliance upon the decision of the Supreme Court in *In Re: Contempt Petition* (supra) is made for the first time in the Review Petition and hence, it cannot be considered. However, the Judgment already considers the submission that part of cause of action had arisen at Delhi.

16. Further, the observation regarding the limitation in Paragraph No. 21 of the Judgment is in accordance with the direction of the Supreme Court in *In Re: Cognizance for extension of limitation*, 2022 (3) SCC 117, and does not require review.

17. As regards the allegation of perjury, the same has been considered in Paragraph No. 10 of the Judgment.

18. In view of the above, the present Review Petition is partly allowed by modifying Paragraph No. 29 of the Judgment as mentioned in Paragraph No. 12 above. The remaining grounds for review of the Judgment are beyond the limited scope available for review of the Judgment. All the remaining grounds mentioned in the Review Petition and hereinabove are already considered in the Judgment and do not qualify for reviewing the Judgment.



19. As regards the extension for the period of limitation, it is directed that the time spent for the present Review Petition before this Court shall be excluded from the period of limitation if the Appellant choses to file the Suit before the Court having jurisdiction.

20. No case is made out for refund of the Court Fees as the Appeal has been dismissed on merits after considering all submissions made by the Appellant.

21. Accordingly, the present Review Petition is partly allowed as directed above. No orders as to costs.

TEJAS KARIA, J.

OCTOBER 10, 2025

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Click here to check corrigendum, if any