



2025:DHC:272



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

Date of decision: 10th JANUARY, 2025

IN THE MATTER OF:

+ **CS(OS) 63/2017**

SHRI INDERJEET SINGH BINDRA

.....Plaintiff

Through: Mr. Shyamal Kumar, Advocate

versus

SMT RAMESH KUMARI AND OTHERS

.....Defendants

Through: Mr Onkareshwar Kandpal,
Mr.Prakash Chandr, Advs. for D-1(A)
Mr. Rajesh Yadav. Senior Advocate
with Mr. V P Rana, Mr. Rajat
Agnihotri, Mr. Kunal Mittal,
Ms.Bhawana, Advocates for D-1(B)

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT (ORAL)

I.A. 545/2025

1. This is an application on behalf of the Plaintiff for condonation of delay in filing the review petition.
2. For the reasons stated in the application, the delay of 18 days in filing the review petition is condoned.
3. The application is disposed of.

REVIEW PET. 10/2025

1. The Plaintiff has approached this Court seeking review of the Order dated 18.11.2024 passed by this Court dismissing an application filed by the



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Plaintiff under Order VI Rule 17 CPC.

2. Shorn of unnecessary details, the facts leading to the review petition are that the Plaintiff has filed the present suit for a decree of declaration and cancellation of 13 Sale Deeds dated 16.09.1988/30.09.1988 in respect of land measuring about 33 Bighas 09 Biswas comprised in rectangle/khasra No.33/7/2, 33/8/2, 33/13, 33/14/1, 33/17, 33/118/2, 36/2 and 36/3 in the area of village Samalkha, Tehsil Mehrauli District New Delhi. The Plaintiff has also prayed for a declaration that the Defendants are in illegal possession of the suit properties.

3. It is the case of the Plaintiff that the Plaintiff is the owner of the said properties. It is stated that in the year 1986, one Jaswant Singh Bhullar visited him in USA and expressed concerns over the interests of the Plaintiff more particularly in the wake of the anti-Sikh riots that took place in the year 1984, said Jaswant Singh Bhullar suggested that Delhi was not safe for Sikhs and that the land of the Plaintiff in Delhi be disposed of. It was stated that the Power of Attorney dated 24.07.1987 was prepared by the Plaintiff. It is the case of the Plaintiff that the Power of Attorney dated 24.07.1987 was never acted upon and was taken back.

4. It was stated that the said Jaswant Singh Bhullar introduced the Plaintiff to one Deepak Bhardwaj. The Plaintiff was told that Deepak Bhardwaj also owned land in the same area and that he would take care of the properties of the Plaintiff. The Plaintiff agreed that the said Deepak Bhardwaj can take care of his properties. However, no documents were executed by the Plaintiff in favour of Deepak Bhardwaj. It is stated that somewhere in the year 2013, when the Plaintiff came to India, he came to know that Deepak Bhardwaj had been murdered and that the said Deepak



Bhardwaj was misusing the said land belonging to the Plaintiff. It is stated that several sale deeds in respect of the said properties were executed by Jaswant Singh Bhullar on the basis of Power of Attorney dated 24.07.1987 which was never acted upon and which had been taken back by the Plaintiff.

5. In the written statement, a specific case has been raised that without challenging the Power of Attorney dated 24.07.1987, the suit as framed is not maintainable and the same is hit by Section 34 of the Specific Relief Act, 1963 in the absence of a relief of possession.

6. The Plaintiff by an application under Order VI Rule 17 CPC sought cancellation of the Power of Attorney dated 24.07.1987. This Court by the said order after hearing both sides refused to grant the prayer as sought for on the ground that the limitation for prayers had expired and that since the remedy stood extinguished, the prayer cannot be granted.

7. This Court placed reliance on Article 59 of the Limitation Act, 1963 and the Judgment of the Apex Court in Prem Singh v. Birbal, (2006) 5 SCC 353 and L. J. Leach and Co. Ltd v. Jardine Skinner and Co., (1957) SCC OnLine SC 68, to come to a conclusion that the sale deeds are of the year 1988, the plaint averment shows that the Plaintiff had come to know of the fraudulent sale deeds in the year 2016, the suit has been filed in the year 2017 and the amendment was sought for in the year 2024 for the cancellation of the Power of Attorney dated 24.07.1987 which is not permissible on the ground that if a suit had been filed on a date when the amendment is sought for, the suit had been barred by time.

8. It is the case of the Plaintiff in the review petition that this Court has failed to take into account Article 65 of the Limitation Act which provides for 12 years for the purpose of filing a suit for possession when the



possession had become adverse to the Defendant. *Prima facie*, this Court is of the opinion that Article 65 of the Limitation Act is not applicable. Though the present suit is one for possession, the prayer that was sought to be introduced was for cancellation of the fraudulent Power of Attorney dated 24.07.1987 after a period of eight years after the Plaintiff come to know of the fraudulent of the Power of Attorney and after seven years of filing of the suit, after which it would become barred by time under Article 59 of the Limitation Act.

9. In any event, in the opinion of this Court, the arguments sought for by the Plaintiff is beyond the scope of a review petition. It is settled that the scope of review is extremely limited and must only be allowed when there is an error apparent on the face of the record or when there is any new or important evidence that is discovered which was not in the knowledge and could not be provided when the order was passed despite conducting due diligence.

10. It is well settled that review cannot be an appeal in disguise. The Apex Court in Haridas Das v. Usha Rani Banik, (2006) 4 SCC 78, has held as under:-

"13. In order to appreciate the scope of a review, Section 114 CPC has to be read, but this section does not even adumbrate the ambit of interference expected of the court since it merely states that it "may make such order thereon as it thinks fit". The parameters are prescribed in Order 47 CPC and for the purposes of this lis, permit the defendant to press for a rehearing "on account of some mistake or error apparent on the face of the records or for any other sufficient reason". The former part of the rule deals with a situation



*attributable to the applicant, and the latter to a jural action which is manifestly incorrect or on which two conclusions are not possible. Neither of them postulate a rehearing of the dispute because a party had not highlighted all the aspects of the case or could perhaps have argued them more forcefully and/or cited binding precedents to the court and thereby enjoyed a favourable verdict. This is amply evident from the Explanation to Rule 1 of Order 47 which states that the fact that the decision on a question of law on which the judgment of the court is based has been reversed or modified by the subsequent decision of a superior court in any other case, shall not be a ground for the review of such judgment. Where the order in question is appealable the aggrieved party has adequate and efficacious remedy and the court should exercise the power to review its order with the greatest circumspection. This Court in *Thungabhadra Industries Ltd. v. Govt. of A.P.* [(1964) 5 SCR 174 : AIR 1964 SC 1372] held as follows : (SCR p. 186)*

“[T]here is a distinction which is real, though it might not always be capable of exposition, between a mere erroneous decision and a decision which could be characterised as vitiated by ‘error apparent’. A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected, but lies only for patent error. ... where without any elaborate argument one could point to the error and say here is a substantial point of law which stares one in the face, and there could reasonably be no two opinions entertained about it, a clear case of error apparent on the face of the record would be made out.”

11. Similarly, the Apex Court in *Meera Bhanja v. Nirmala Kumari Choudhury*, (1995) 1 SCC 170, has held as under:-



"8. It is well settled that the review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of Order 47 Rule 1 CPC. In connection with the limitation of the powers of the court under Order 47 Rule 1, while dealing with similar jurisdiction available to the High Court while seeking to review the orders under Article 226 of the Constitution, this Court, in Aribam Tuleshwar Sharma v. Aribam Pishak Sharma [(1979) 4 SCC 389 : AIR 1979 SC 1047] speaking through Chinnappa Reddy, J. has made the following pertinent observations:

'It is true there is nothing in Article 226 of the Constitution to preclude the 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 power which may enable an appellate court to correct all manner of errors committed by the subordinate court.' "
(SCC pp. 172-73, para 8)"



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12. As stated earlier, in the opinion of this Court, the Plaintiff is trying to state that the Court has failed to consider the effect of Article 65 of the Limitation Act which would be outside the scope of review. It is not the case of the Plaintiff that this Court has placed reliance on a fact which is not on the record or that any new fact has come to the knowledge of the Plaintiff or that any judgment on which reliance has been placed stood overruled and the effect of which is the order is *per incuriam*. Since the attempt by the Plaintiff is to re-argue the matter by contending that this Court has failed to consider the effect of considering Article 65 of the Limitation Act, this Court is not inclined to accept the application for review of the Order dated 18.11.2024.

13. The review petition is dismissed.

I.A. 7989/2024 & I.A. 1955/2024

List on 27.03.2025.

SUBRAMONIUM PRASAD, J

JANUARY 10, 2025

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