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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
N.V. RAMANA; CJI., KRISHNA MURARI; J., HIMA KOHLI, J.
AUGUST 18, 2022

CIVIL APPEALS NO. 5503-04 OF 2022 ARISING OUT OF PETITIONS FOR SPECIAL LEAVE TO APPEAL (CIVIL) NO.9602-03 OF 2022
S. MADHUSUDHAN REDDY *versus* **V. NARAYANA REDDY AND OTHERS**

CIVIL APPEAL NO.5505 OF 2022 ARISING OUT OF PETITION FOR SPECIAL LEAVE TO APPEAL (CIVIL) NO.11290 OF 2022
S. NARSIMHA REDDY *versus* **V. NARAYANA REDDY AND OTHERS**

Code of Civil Procedure, 1908; Section 114 , Order XLVII - Distinction between an erroneous decision as against an error apparent on the face of the record - An erroneous decision can be corrected by the Superior Court, however an error apparent on the face of the record can only be corrected by exercising review jurisdiction - A judgment can be open to review if there is a mistake or an error apparent on the face of the record, but an error that has to be detected by a process of reasoning, cannot be described as an error apparent on the face of the record for the Court to exercise its powers of review. *(Para 26)*

Code of Civil Procedure, 1908; Section 114, Order XLVII Rule 1 - "for any other sufficient reason" means "a reason sufficient on grounds, at least analogous to those specified in the rule". *(Para 26)*

Code of Civil Procedure, 1908; Order XLVII Rule 1 CPC - In order to satisfy the requirements prescribed in Order XLVII Rule 1 CPC, it is imperative for a party to establish that discovery of the new material or evidence was neither within its knowledge when the decree was passed, nor could the party have laid its hands on such documents/evidence after having exercised due diligence, prior to passing of the order. *(Para 33)*

Code of Civil Procedure, 1908; Order XLVII Rule 1 CPC - A review application would be maintainable on (i) discovery of new and important matters or evidence which, after exercise of due diligence, were not within the knowledge of the applicant or could not be produced by him when the decree was passed or the order made; (ii) on account of some mistake or error apparent on the face of the record; or (iii) for any other sufficient reason - Scope of review jurisdiction discussed. *(Para 11- 25)*

(Arising out of impugned final judgment and order dated 29-04-2022 in IA No.2/2014 and CRP No.2786/2013 passed by the High Court for the State of Telangana at Hyderabad)

For Petitioner(s) Dr. Abhishek Manu Singhvi, Sr.Adv. Mr. V.K. Shukla, Sr.Adv. Mr. Somanadri Goud Katam, AOR Mr. Nidhi Ram Sharma, Adv. Mr. Ganesh Bhardwaj, Adv. Mr. V.C. Shukla, Adv. Mr. Sirajuddin, Adv.

For Respondent(s) Shri. Gaichangpou Gangmei, AOR

J U D G M E N T

HIMA KOHLI, J.

1. Leave granted.

2. The present appeals are directed against a common judgment and order dated 29th April, 2022 passed by the learned Single Judge of the High Court for the State of Telangana at Hyderabad, allowing the review petitions filed by the respondent Nos. 1 to

6 herein (IA No.2 of 2014 in Revision CRPMP No. 6377 of 2014 moved in and Civil Revision Petition No.2786 of 2013 and IA No.1 of 2014 in Revision CRMP No.4997 / 2014 moved in and Civil Revision Petition No.2787 /2013). As a result of allowing the review petitions, the common judgment and order dated 09th July, 2013 passed by the predecessor Bench upholding the common order dated 23rd March, 2013 in Cases No. F1/3/2005 and F1/4/2005 passed by the Joint Collector, Mahabubnagar, has been set aside and as a sequel thereto, the orders dated 31st March, 1967 passed by the Tahsildar, Shadnagar, accepting the surrender of protected tenancy rights by the ancestors of the appellant have been confirmed.

3. The appeals have a chequered history that dates back to the year 1967. The facts relevant for deciding the present appeals are as follows:-

3.1 Late Shri Chandra Reddy and late Shri Chenna Reddy, both sons of Buchi Reddy, were protected tenants in respect of separate parcels of land situated in different survey numbers of Kammadanam Village, Shadnagar Mandal, Mahabubnagar District[1]. The recorded landlord of the protected tenants was late Venkat Anantha Reddy, who was the Karta of a joint family comprising of himself and his brother, late Laxma Reddy. On the basis of an oral partition of the land that took place between the two brothers, the subject land fell to the share of late L. Harshavardhan Reddy (respondent No.6), son of late Laxma Reddy. Pertinently, L. Harshavardhan Reddy expired during the pendency of the review petitions and L. Sameera Reddy was brought on record as his legal heir. As per the respondents, late Shri Chandra Reddy, who was a protected tenant in respect of the subject land measuring 57 acres and 16 guntas, had surrendered his protected tenancy rights on submitting a written application dated 6th August, 1966 to the Tehsildar. A similar application was submitted by the three legal heirs of Late Chenna Reddy (Ram Reddy, Chandra Reddy and Laxma Reddy) in respect of land measuring 98 acres 18 guntas. The respondents claim that on receiving the said applications, the Tehsildar, Shadnagar, recorded the statements of the applicants and after confirming the identity of the parties, issued a public notice and thereafter, accepted the surrender on satisfying the requirements prescribed in the A.P. (Telangana Area) Tenancy and Agricultural Lands Act, 1950[2]. After accepting the surrender applications, the names of the protected tenants were struck off from the final records of tenancy, *vide* order dated 31st March, 1967.

3.2 It is also the version of the respondents that the protected tenants had surrendered their tenancy rights in favour of late Venkat Anantha Reddy pursuant to an understanding that the latter would not oppose the 38-B Certificate issued by the Tenancy Tribunal in favour of Chandra Reddy and the sons of late Chenna Reddy in respect of the parcel of land measuring 85 acres 23 guntas situated in Kammadanam Village. In other words, there was a reciprocity between the protected tenants and the landlord based on which, the landlord relinquished his rights in respect of land measuring 85 acrs 23 guntas in exchange of the surrender of the subject land by Chandra Reddy and the legal heirs of late Chenna Reddy.

3.3 On the other hand, the appellant, who is the legal heir of the original tenants, claims that his ancestors were dispossessed from the subject land in the year 1975 when they were trying to obtain 38-E Certificate from the authorities. Only in the year 2001 when

[1] Hereinafter referred to as 'subject land'
[2] For short 'Act'

the legal heirs of the protected tenants had applied for the final record of tenancy, did they discover that the names of the protected tenants had been struck off on the basis of the purported surrender proceedings conducted by the Tehsildar in the year 1967. Challenging the said surrender proceedings, the predecessors-in-interest of the appellant being the protected tenants, preferred appeals before the Joint Collector in February, 2002 along with an application seeking condonation of delay. The said appeals were allowed by the Joint Collector, Mahabubnagar, being the Appellate Authority, vide order dated 2nd April, 2005. Aggrieved by the said order, the respondents approached the High Court of Andhra Pradesh[3] raising a plea that it was an *ex-parte* order and filed two Civil Revision Petitions (CRP No. 4620/2005 and CRP No. 4988/2005), which were allowed, *vide* order dated 19th September, 2006 and the matters were remanded back for fresh disposal. On a re-hearing, the Appellate Authority passed an order on 23rd March, 2013 whereby, the order dated 31st March, 1967 passed by the Tehsildar, Shadnagar accepting the surrender of the protected tenancy rights by the ancestors of the appellant, was set aside and the original entries in respect of the land in the final record of tenancy as existing prior to 1967, were restored.

3.4 Dissatisfied by the order dated 23rd March, 2013, the respondents once again approached the High Court by filing two Civil Revision Petitions (CRP No.2786/2013 and CRP No.2787/2013), which came to be dismissed by a common judgment and order dated 09th July, 2013. The review petitions subsequently filed by the respondents for seeking review of the aforesaid judgment (Rev. CRMP No.5443/2013 in Civil Revision Petition No. 2786/2013 and Rev. CRMP No. 5432/2013 in Civil Revision Petition No. 2787/2013) were also dismissed, *vide* order dated 20th February, 2014. The common judgment and order dated 9th July, 2013 and the order dated 20th February, 2014 were assailed by the respondent Nos. 1 to 6 through Special Leave Petitions (C) CC No. 8209-8210/ 2014 that were disposed of with the following order passed on 4 th July, 2014:

"Delay condoned.

The learned counsel for the petitioners submits that he would be in a position to file genuine documents to show that there was surrender of tenancy. If he will be able to obtain such documents, it is open to him to file a review before the High Court. The special leave petitions are disposed of accordingly."

3.5 Armed with the above order, the respondents No. 1 to 6 again approached the High Court and filed a second round of review applications seeking review of the common order and judgment dated 9th July, 2013 which have been allowed by the impugned order. The learned Single Judge has upheld the surrender order dated 31st March, 1967 passed by the Tehsildar, Shadnagar whereby the names of the protected tenants (predecessors-in-interest of the appellants) were deleted from the final records of tenancy.

4. Arguing for the appellant, Dr. Abhishek Manu Singhvi, learned Senior Advocate has contended that the review petitions filed by the respondents No. 1 to 6 are not maintainable as they do not satisfy any of the conditions for review provided in Order XLVII Rule 1 of the Civil Procedure Code, 1908[4]. He submitted that the grounds taken in the second set of review petitions were akin to those taken in the first set of review petitions and once the first set of review petitions were dismissed by the High Court, *vide*

[3] For short 'High Court'
[4] For short 'CPC'

order dated 20th February, 2014 and no new grounds were taken by the respondents No.1 to 6 subsequently, there was no occasion to allow the second set of review petitions; that the respondents No. 1 to 6 did not take a plea that the documents subsequently filed by them, were not in their knowledge when they had filed the civil revision petitions and the first set of review petitions before the High Court for attracting the provisions of Order XLVII Rule 1 CPC. Stating that the scope of review is very limited and a review application can only be entertained if there is any error apparent on the face of the record, which the respondents No. 1 to 6 have failed to point out in the instant case, learned Senior Counsel submitted that the High Court ought to have dismissed the same outright. It was argued that by virtue of the impugned order, the High Court has virtually treated the review petitions filed by the respondents No. 1 to 6 as independent appeals, which is impermissible. To buttress the aforesaid submissions made on the limited ambit and scope of a review petition and the bar on filing successive review petitions, the decisions of this Court in ***Babboo Alias Kalyandas and Others v. State of Madhya Pradesh*** [5]and ***Lilly Thomas and Others v. Union of India and Others*** [6] have been cited.

5. Another plea sought to be taken on behalf of the appellant is that the name of the father of the protected tenants, Chandra Reddy and Chenna Reddy has been stated to be Papi Reddy in the surrender proceedings whereas, his correct name is Buchi Reddy which goes to show that the surrender proceedings conducted by the Tehsildar were fabricated and the fact of the matter is that neither the appellant, nor his ancestors had ever surrendered the tenancy rights in favour of the respondents/their ancestors/ predecessors- in-interest. It was contended that this fact is borne out from the declaration made by the landlord in the ceiling proceedings where he had admitted that 38-E Certificate was granted in respect of the subject land and the tenants were in possession thereof. It was canvassed that the High Court has failed to appreciate that had surrender of lands by the protected tenants in favour of the landlord actually taken place in the year 1967, as alleged, there was no occasion for the landlord to have later on claimed exemption of these lands for being computed as part of his holdings under the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973[7].

6. The aforesaid submissions made on behalf of the appellant have been vehemently contested by Mr. Mukul Rohatgi, learned Senior Advocate appearing for the respondents. It was submitted that the surrender proceedings had attained finality in the year 1967 and after maintaining silence for almost 35 years, the legal heirs of the protected tenants, had filed a misconceived appeal under Section 90(1) of the Land Ceiling Act. Pertinently, the respondents being the purchasers of the subject land, were not made parties in the said proceedings and the Appellate Authority had proceeded to pass an order dated 2nd April, 2005 allowing the said appeals behind their back. Aggrieved by the said *ex parte* order, when the respondents approached the High Court, the matters were remanded back to the Appellate Authority for fresh adjudication. The Appellate Authority allowed the appeals, once again compelling the respondents to approach the High Court by filing fresh appeals which were knocked off *vide* order dated 09th July, 2013 and their review petitions were also dismissed on 20th February, 2014. Against the said dismissal orders, the respondents had to approach this Court. The petitions for special leave to appeal

[5] (1979) 4 SCC 74
[6] (2000) 6 SCC 224
[7] For short 'the Land Ceiling Act'

preferred by them were disposed of *vide* order dated 4th July, 2014 that has been extracted in para 5 hereinabove.

7. Learned Senior Advocate submitted that in the light of the permission granted by this Court, the respondents had filed review petitions in the Civil Revision Petitions before the High Court after obtaining certified copies of the relevant documents forming a part of the revenue records. Only after considering the said documents did the learned Single Judge allow the review petitions for cogent and valid reasons that do not deserve any interference. It has been canvassed on behalf of the respondents that the legal heirs of the protected tenant had knowledge about the surrender of the subject land right from the year 1967 to 2001 and they were also aware of the fact that the names of their ancestors were not reflected in the protected tenants register. The real position is that the ancestors of the appellant were never in possession of the subject land after 1967. Despite that, they had approached the Appellate Authority challenging the surrender proceedings after a passage of 35 years. Contending that said appeals were highly belated and deserved to be thrown out on the ground of limitation alone without going into the merits, the decisions in ***Sakuru v. Tanaji*** [8] *and* ***Dharappa v. Bijapur Coop. Milk Products Societies Union Limited*** [9] have been cited. It has been urged that the appeals preferred by the ancestors of the appellant were not maintainable, being patently barred by limitation which aspect has been gone into by the High Court while passing the impugned judgment allowing the review petitions filed by the respondents.

8. As for the mis-description of the predecessor-in-interest of the appellant, it was submitted that Buchi Reddy was also known Papi Reddy in the village which fact is reflected from the revenue records, namely, *Faisal Patti* record of the village, as recorded by the Patwari. Counsel for the respondents also sought to negate the ground taken by the other side with reference to the landlord claiming exemption under the land ceiling proceedings on the ground that Land Reforms Tribunal did not accept such a plea of exemption. It was thus submitted that surrender of the tenancy rights had attained finality in the year 1967 itself and the appellant and his ancestors have reopened settled issues after passage of 35 years reckoned from the date of surrender only for the reason that the price of the subject land, which is situated close to the International Airport at Shamshabad, have escalated and he wants to encash the same.

9. This Court has carefully perused the impugned judgment and the orders preceding the impugned judgment, gone through the records and given its thoughtful consideration to the arguments advanced by learned counsel for the parties. The only point that arises for consideration in these appeals is whether the respondents/review petitioners had made out a case for reviewing the judgment and order dated 23rd March, 2013 by satisfying the criteria for entertaining a second set of review petitions, having failed to succeed in the first set of review petitions.

10. The core argument advanced on behalf of the appellant that the High Court ought not to have entertained successive review petitions filed by the respondents when they could not demonstrate emergence of any new facts or point out any error apparent on the face of the record, for allowing the review applications, must be put to test by examining the relevant provisions of law that governs review jurisdiction.

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[8] (1985) 3 SCC 590
[9] (2007) 9 SCC 109

11. Section 114 of the CPC which is the substantive provision, deals with the scope of review and states as follows:

"Review:- Subject as aforesaid, any person considering himself aggrieved:- (a) by a decree or order from which an appeal is allowed by this Code, but from which no appeal has been preferred;

(b) by a decree or order from which no appeal is allowed by this Code; or (c) by a decision on a reference from a Court of Small Causes, may apply for a review of judgment to the court which passed the decree or made the order, and the court may make such order thereon as it thinks fit."

12. The grounds available for filing a review application against a judgment have been set out in Order XLVII of the CPC in the following words:

"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 noappeal has been preferred,

(b) by a decree or order from which no appeal is 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.

(2) A party who is not appealing from a decree or Order may apply for a review of judgment notwithstanding the pendency of an appeal by some other party except where the ground of such appeal is common to the applicant and the appellant, or when, being respondent, he can present to the Appellate Court the case on which he applies for the review.

1[Explanation-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.]"

13. A glance at the aforesaid provisions makes it clear that a review application would be maintainable on (i) discovery of new and important matters or evidence which, after exercise of due diligence, were not within the knowledge of the applicant or could not be produced by him when the decree was passed or the order made; (ii) on account of some mistake or error apparent on the face of the record; or (iii) for any other sufficient reason.

14. In ***Col. Avatar Singh Sekhon v. Union of India and Others***[10],this Court observed that a review of an earlier order cannot be done unless the court is satisfied that the material error which is manifest on the face of the order, would result in miscarriage of justice or undermine its soundness. The observations made are as under:

"12. A review is not a routine procedure. Here we resolved to hear Shri Kapil at length to remove any feeling that the party has been hurt without being heard. But we cannot review our earlier order unless satisfied that material error, manifest on the face of the order, undermines its soundness or results in miscarriage of justice. In *Sow Chandra Kante and Another v. Sheikh Habib*[11]this Court observed :

'**A review of a judgment is a serious step and reluctant resort to it is proper only where a glaring omission or patent mistake or like grave error has crept in earlier by judicial fallibility.**

[10] 1980 Supp SCC 562
[11] (1975) 1 SCC 674

… The present stage is not a virgin ground but review of an earlier order which has the normal feature of finality.' "

(emphasis added)

15. In ***Parsion Devi and Others v. Sumitri Devi and Others***[12], stating that an error that is not self- evident and the one thathas to be detected by the process of reasoning, cannot be described as an error apparent on the face of the record for the Court to exercise the powers of review, this Court held as under:

"7. It is well settled that review proceedings have to be strictly confined to the ambit and scope of Order 47 Rule 1 CPC. In *Thungabhadra Industries Ltd. v. Govt. of A.P.*[13]this Court opined:

'11. What, however, we are now concerned with is whether the statement in the order of September 1959 that the case did not involve any substantial question of law is an 'error apparent on the face of the record'. The fact that on the earlier occasion the Court held on an identical state of facts that a substantial question of law arose would not per se be conclusive, for the earlier order itself might be erroneous. Similarly, even if the statement was wrong, it would not follow that it was an 'error apparent on the face of the record', for there 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 characterized 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.'*

8. Again, in *Meera Bhanja v. Nirmala Kumari Choudhury*[14] while quoting with approval a passage from *Aribam Tuleshwar Sharma v. Aribam Pishak Sharma*[15] this Court once again held that 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.

9. **Under Order 47 Rule 1 CPC a judgment may be open to review inter alia ifthere 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 1 CPC. In exercise of this jurisdiction under Order 47 rule 1 CPC 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'**".

[*emphasis added]*

16. The error referred to under the Rule, must be apparent on the face of the record and not one which has to be searched out. While discussing the scope and ambit of Article 137 that empowers the Supreme Court to review its judgments and in the course of discussing the contours of review jurisdiction under Order XLVII Rule 1 of the CPC in ***Lily Thomas(supra)***, this Court held as under:

"**54.** Article 137 empowers this court to review its judgments subject to the provisions of any law made by Parliament or any rules made under Article 145 of the Constitution. The Supreme Court Rules made in exercise of the powers under Article 145 of the Constitution prescribe that in civil cases, review lies on any of the grounds specified in Order 47 rule 1 of the Code of Civil Procedure which provides:

"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,

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[12] (1997) 8 SCC 715
[13] 1964 SCR (5) 174
[14] (1995) 1 SCC 170
[15] (1979) 4 SCC 389

(b) by a decree or order from which no appeal is 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.'

Under Order XL Rule 1 of the Supreme Court Rules no review lies except on the ground of error apparent on the face of the record in criminal cases. Order XL Rule 5 of the Supreme Court Rules provides that after an application for review has been disposed of no further application shall be entertained in the same matter.

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56**. It follows, therefore, that the power of review can be exercised for correction of a mistake but not to substitute a view. Such powers can be exercised within the limits of the statute dealing with the exercise of power. The review cannot be treated like an appeal in disguise. The mere possibility of two views on the subject is not a ground for review. Once a review petition is dismissed no further petition of review can be entertained.** The rule of law of following the practice of the binding nature of the larger Benches and not taking different views by the Benches of coordinated jurisdiction of equal strength has to be followed and practised. However, this Court in exercise of its powers under Article 136 or Article 32 of the Constitution and upon satisfaction that the earlier judgments have resulted in deprivation of fundamental rights of a citizen or rights created under any other statute, can take a different view notwithstanding the earlier judgment.

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58. Otherwise also no ground as envisaged under Order XL of the Supreme Court Rules read with Order 47 of the Code of Civil Procedure has been pleaded in the review petition or canvassed before us during the arguments for the purposes of reviewing the judgment in *Sarla Mudgal case*[16]. It is not the case of the petitioners that they have discovered any new and important matter which after the exercise of due diligence was not within their knowledge or could not be brought to the notice of the Court at the time of passing of the judgment. All pleas raised before us were in fact addressed for and on behalf of the petitioners before the Bench which, after considering those pleas, passed the judgment in *Sarla Mudgal*[16] case. We have also not found any mistake or error apparent on the face of the record requiring a review. **Error contemplated under the rule must be such which is apparent on the face of the record and not an error which has to be fished out and searched. It must be an error of inadvertence.** No such error has been pointed out by the learned counsel appearing for the parties seeking review of the judgment. The only arguments advanced were that the judgment interpreting Section 494 amounted to violation of some of the fundamental rights. No other sufficient cause has been shown for reviewing the judgment. **The words "any-other sufficient reason appearing in Order 47 Rule 1 CPC" must mean "a reason sufficient on grounds at least analogous to those specified in the rule" as was held in *Chajju Ram v. Neki Ram*[17] and approved by this Court in *Moran Mar Basselios Catholicos. v. Most Rev. Mar Poulose Athanasius*[18]. Error apparent on the face of the proceedings is an error which is based on clear ignorance or disregard of the provisions of law. in *T.C. Basappa v. T. Nagappa*[19] this Court held that such error is an error which is a patent error and not a mere wrong decision**. ***In** Hari Vishnu Kamath v. Ahmad*[20], it was held:

[16] (1995) 3 SCC 635, Sarla Mudgal, President, Kalyani and Others v. Union of India and Others
[17] AIR 1922 PC 112
[18] 1955 SCR 520
[19] 1955 SCR 250
[20] AIR 1955 SC 233

"I**t is essential that it should be something more than a mere error; it must be one which must be manifest on the face of the record.** The real difficulty with reference to this matter, however, is not so much in the statement of the principle as in its application to the facts of a particular case. When does an error, cease to be mere error and become an error apparent on the face of the record? Learned Counsel on either side were unable to suggest any clear-cut rule by which the boundary between the two classes of errors could be demarcated.

Mr. Pathak for the first respondent contended on the strength of certain observations of Chagla, CJ in – *'Batuk K Vyas v. Surat Borough Municipality*[21], that no error could be said to be apparent on the face of the record if it was not self-evident and if it required an examination or argument to establish it. This test might afford a satisfactory basis for decision in the majority of cases. But there must be cases in which even this test might break down, because judicial opinions also differ, and an error that might be considered by one Judge as self-evident might not be so considered by another. **The fact is that what is an error apparent on the face of the record cannot be defined precisely or exhaustively, there being an element of indefiniteness inherent in its very nature, and it must be left to be determined judicially on the facts of each case.**

Therefore, it can safely be held that the petitioners have not made out any case within the meaning of Article 137 read with Order XL of the Supreme Court Rules and Order 47 Rule 1 CPC for reviewing the judgment in *Sarla Mudgal case*[16]. The petition is misconceived and bereft of any substance."

(emphasis added)

17. It is also settled law that in exercise of review jurisdiction, the Court cannot reappreciate the evidence to arrive at a different conclusion even if two views are possible in a matter. In ***Kerala State Electricity Board v. Hitech Electrothermics & Hydropower Ltd. and Others***[22]*,* this Court observed as follows:

"10. ....**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**. 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 added)

18. Under the garb of filing a review petition, a party cannot be permitted to repeat old and overruled arguments for reopening the conclusions arrived at in a judgment. The power of review is not to be confused with the appellate power which enables the Superior Court to correct errors committed by a subordinate Court. This point has been elucidated in ***Jain Studios Ltd. V. Shin Satellite Public Co. Ltd.***[23] where it was held thus:

"11. So far as the grievance of the applicant on merits is concerned, the learned counsel for the opponent is right in submitting that virtually the applicant seeks the same relief which had been sought at the time of arguing the main matter and had been negatived. Once such a prayer had been refused, no review petition would lie which would convert rehearing of the original matter**. It is**

[21] ILR 1953 Bom 191
[22] (2005) 6 SCC 651
[23] (2006) 5 SCC 501

settled law that the power of review cannot be confused with appellate power which enables a superior court to correct all errors committed by a subordinate court. It is not rehearing of an original matter. A repetition of old and overruled argument is not enough to reopen concluded adjudications. The power of review can be exercised with extreme care, caution and circumspection and only in exceptional cases.

12. When a prayer to appoint an arbitrator by the applicant herein had been made at the time when the arbitration petition was heard and was rejected, the same relief cannot be sought by an indirect method by filing a review petition. **Such petition, in my opinion, is in the nature of 'second innings' which is impermissible and unwarranted and cannot be granted."**

(emphasis added)

19. After discussing a series of decisions on review jurisdiction in ***Kamlesh Verma v. Mayawati and Others***[24], this Court observed that review proceedings have to be strictly confined to the scope and ambit of Order XLVII Rule 1, CPC. As long as the point sought to be raised in the review application has already been dealt with and answered, parties are not entitled to challenge the impugned judgment only because an alternative view is possible. The principles for exercising review jurisdiction were succinctly summarized in the captioned case as below:

"20. Thus, in view of the above, the following grounds of review are maintainable as stipulated by the statute:

20.1. When the review will be maintainable:

(i) Discovery of new and important matter or evidence which, after the exercise ofdue diligence, was not within knowledge of the petitioner or could not be produced by him;

(ii) Mistake or error apparent on the face of the record;

(iii) Any other sufficient reason.

The words "any other sufficient reason" has been interpreted in Chajju Ram vs. Neki[17], and approved by this Court in *Moran Mar Basselios Catholicos vs. Most Rev. Mar Poulose Athanasius & Ors.*[18] to mean "a reason sufficient on grounds at least analogous to those specified in the rule". The same principles have been reiterated in *Union of India v. Sandur Manganese & Iron Ores Ltd. & Ors*.[25],.

20.2. When the review will not be maintainable: -

(i) A repetition of old and overruled argument is not enough to reopen concluded adjudications.

(ii) Minor mistakes of inconsequential import.

(iii) Review proceedings cannot be equated with the original hearing of the case. (iv) Review is not maintainable unless the material error, manifest on the face of the order, undermines its soundness or results in miscarriage of justice. (v) A review is by no means an appeal in disguise whereby an erroneous decision is re-heard and corrected but lies only for patent error.

(vi) The mere possibility of two views on the subject cannot be a ground for review. (vii) The error apparent on the face of the record should not be an error which has to be fished out and searched.

(viii) The appreciation of evidence on record is fully within the domain of the appellate court, it cannot be permitted to be advanced in the review petition. (ix) Review is not maintainable when the same relief sought at the time of arguing the main matter had been negatived."

20. In ***Aribam Tuleshwar Sharma v. Aribam Pishak Sharma***[15], this Court was examining an order passed by the Judicial Commissioner who was reviewing an earlier

[24] (2013) 8 SCC 320
[25] (2013) 8 SCC 337

judgment that went in favour of the appellant, while deciding a review application filed by the respondents therein who took a ground that the predecessor Court had overlooked two important documents that showed that the respondents were in possession of the sites through which the appellant had sought easementary rights to access his home-stead. The said appeal was allowed by this Court with the following observations:

"3 …It is true as observed by this Court in *Shivdeo Singh and Others v. State of Punjab*[26] 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 pulpable 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**."

(emphasis added)

21. In ***State of West Bengal and Others v. Kamal Sengupta and Another***[27], this Court emphasized the requirement of the review petitioner who approaches a Court on the ground of discovery of a new matter or evidence, to demonstrate that the same was not within his knowledge and held thus:

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

(emphasis added)

22. In the captioned judgment, the term 'mistake or error apparent' has been discussed in the following words:

"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 1 CPC 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**".

(emphasis added)

[26] (1979) 4 SCC 389
[27] (2008) 8 SCC 612

23. In ***S. Nagaraj and Others v. State of Karnataka and Another***[28], this Court explained as to when a review jurisdiction could be treated as statutory or inherent and held thus:

"18. Justice is a virtue which transcends all barriers. Neither the rules of procedure nor technicalities of law can stand in its way. The order of the court should not be prejudicial to anyone. Rule of stare decisis is adhered for consistency but it is not as inflexible in Administrative Law as in Public Law. Even the law bends before justice. **Entire concept of writ jurisdiction exercised by the higher courts is founded on equity and fairness. If the court finds that the order was passed under a mistake and it would not have exercised the jurisdiction but for the erroneous assumption which in fact did not exist and its perpetration shall result in miscarriage of justice then it cannot on any principle be precluded from rectifying the error. Mistake is accepted as valid reason to recall an order. Difference lies in the nature of mistake and scope of rectification, depending on if it is of fact or law. But the root from which the power flows is the anxiety to avoid injustice. It is either statutory or inherent. The latter is available where the mistake is of the Court"**.

(emphasis added)

24. In ***Patel Narshi Thakershi and Others v. Shri Pradyuman Singhji Arjunsinghji***[29], this Court held as follows:

"4….. **It is well settled that the power to review is not an inherent power. It must be conferred by law either specifically or by necessary implication**. No provision in the Act was brought to notice from which it could be gathered that the Government had power to review its own order. If the Government had no power to review its own order, it is obvious that its delegate could not have reviewed its order……."

(emphasis added)

25. In ***Ram Sahu (Dead) Through LRs and Others v. Vinod Kumar Rawat and Others***[30], citing previous decisions and expounding on the scope and ambit of Section 114 read with Order XLVII Rule 1, this Court has observed that Section 114 CPC does not lay any conditions precedent for exercising the power of review; and nor does the Section prohibit the Court from exercising its power to review a decision. However, an order can be reviewed by the Court only on the grounds prescribed in Order XLVII Rule 1 CPC. The said power cannot be exercised as an inherent power and nor can appellate power be exercised in the guise of exercising the power of review.

26. As can be seen from the above exposition of law, it has been consistently held by this Court in several judicial pronouncements that the Court's jurisdiction of review, is not the same as that of an appeal. A judgment can be open to review if there is a mistake or an error apparent on the face of the record, but an error that has to be detected by a process of reasoning, cannot be described as an error apparent on the face of the record for the Court to exercise its powers of review under Order XLVII Rule 1 CPC. In the guise of exercising powers of review, the Court can correct a mistake but not substitute the view taken earlier merely because there is a possibility of taking two views in a matter. A judgment may also be open to review when any new or important matter of evidence has emerged after passing of the judgment, subject to the condition that such evidence was not within the knowledge of the party seeking review or could not be produced by it when the order was made despite undertaking an exercise of due diligence. There is a clear

[28] 1993 Supp (4) SCC 595
[29] (1971) 3 SCC 844
[30] (2020) SCC Online SC 896

distinction between an erroneous decision as against an error apparent on the face of the record. An erroneous decision can be corrected by the Superior Court, however an error apparent on the face of the record can only be corrected by exercising review jurisdiction. Yet another circumstance referred to in Order XLVII Rule 1 for reviewing a judgment has been described as "for any other sufficient reason". The said phrase has been explained to mean *"a reason sufficient on grounds, at least analogous to those specified in the rule*" (Refer: ***Chajju Ram v. Neki Ram***[17] and ***Moran Mar Basselios Catholicos and Anr. v. Most Rev. Mar Poulose Athanasius and Others***[18]).

27. In the light of the legal position crystalized above, let us now examine the grievance raised by the appellant. The learned Single Judge of the High Court has taken great pains to discuss the three circumstances available under Order XLVII CPC for maintaining a review application and observed that in the instant case, the respondents had stated before this Court that they had in their possession, genuine documents relating to surrender of the protected tenancy rights in respect of the subject land and in view of the said submission, the petitions for Special Leave to Appeal were disposed of with an observation that if the respondents were able to obtain such documents, it would be open to them to file a review petition before the High Court. What is relevant is that this Court had even then declined to interfere with the findings on merits returned by the High Court vide Judgment dated 09th July, 2013; nor was the review order dated 20th February, 2014, interfered with. Under the garb of the liberty granted to them to approach the High Court again, all that the respondents have done is to obtain certified copies of the revenue records in respect of the subject land and enclosed them with the second set of review petitions. This is so when photocopies of the said documents had been filed by them earlier.

28. Nothing prevented the respondents from filing the certified copies of the revenue records even earlier, but they elected to file only photocopies of the very same surrender proceedings along with the revision petitions that were ultimately dismissed by the High Court vide common judgment dated 9th July, 2013. The High Court refused to accept the version of the respondents that the protected tenants had surrendered the subject lands in favour of the landlord. The discussion in the judgment regarding the purported surrender proceedings of protected rights by the tenants before the Tehsildar in the year 1967 is revealing and extracted hereinbelow for ready reference:-

"2. ……The legal representatives of the protected tenants were not parties to the alleged surrender proceedings before the then Tahsildar in the year 1967. There is nothing on record to show that they were ever dispossessed from the lands, so that they can take necessary steps under relevant provisions of the Act before the authorities concerned. After coming to know about earlier proceedings which are stated to be in the year 1967, they rushed to the Joint Collector with the present appeals. There is nothing on record to impute knowledge of the proceedings of the year 1967 to them at any time prior to filing of the appeals before the Joint Collector.

3. Though the alleged surrender of protected tenancy rights by one protected tenant and three legal representatives of the other protected tenant was stated to be in the year 1967, it is pointed out by the Joint Collector in the impugned order that the original land holder/landlord sought for exemption from computing these lands in his holding under the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973. If really the alleged surrender of lands by the protected tenants in favour of the landlord was in the year 1967, the landlord would not have claimed exemption for these lands from being computed in his holding under the Ceiling Act. No doubt, the Land Reforms Tribunal rejected the plea of exemption put forward by the landlord on the ground that he did not produce proper evidence of granting certificates under Section 38-E of the Act in

favour of the protected tenants for these lands. Therefore, these lands were computed in the holding of the landlord not on the ground of the protected tenants surrendering their protected tenancy rights, but on the ground that the landholder could not produce relevant documents for exemption. Therefore, the Joint Collector rightly came to the conclusion that file relating to surrender of lands by the protected tenants in the year 1967 was manipulated by ante dating the same after the land ceiling case was finalized by the Land Ceiling Tribunal.

4. Further, the Joint Collector rightly disbelieved the alleged surrender of protected tenancy rights in the year 1967 on the ground that if the surrender in the year 1967 was correct, the question of again terminating protected tenancy rights for Ac.36.34 guntas by order dated 16.06.2008 does not arise.

5. Record of the then Tahsildar in the year 1967 discloses that one protected tenant and legal heirs of other protected tenant intended to surrender protected tenancy rights in favour of the landlord as the landlord intended to cultivate these lands personally. Further, the Joint Collector came to the conclusion that the alleged surrender in the year 1967 was without knowledge of the protected tenant and legal heirs of another protested tenant inasmuch as the landholder pleaded before the Land Ceilings Tribunal in his land celling declaration that these lands are in possession of the protected tenants. From the above circumstances, it can be safely concluded that record of the then Tahsildar, Shamshadnagar by way of surrender of protected tenancy rights under Section 19 of the Act was not only ante dated but also cooked up. Hence, find no reason to come to a different conclusion from that of the Joint Collector in this revision petition. The common order passed by the Joint Collector is proper, legal and regular."

29. In the first round of the review proceedings filed by the respondents for seeking review of the order and judgment dated 9th July, 2013, they had sought to raise, amongst others, the plea of limitation, the purported error on the part of the Appellate Authority in calling for the records from the office of the Revenue Divisional Officer for deciding the case and the alleged misconstruction of the ceiling proceedings conducted by the Land Reforms Tribunal, all of which were earlier argued and did not find favour with the High Court. But, at no stage was a plea taken by the respondents with regard to the discovery of new documents which could not have been produced by them after undertaking due diligence before the order dated 9th July, 2013 came to be passed. When the first set of review petitions were dismissed by the learned Single Judge by a detailed order dated 20th February, 2014, it was specifically observed in para 2 that the respondents did not plead that any new facts had come to light for the consideration of the Court. In fact, a perusal of the said order shows that the respondents only sought to reargue the points that had already been taken by them and were rejected outrightly, vide judgment dated 9th July, 2013.

30. The sequence of events narrated in the order dated 20th February, 2014, passed by the High Court while dismissing the first set of review applications brings to the fore the fact that the respondents had approached the High Court twice by filing Civil Revision Petitions. In the first round, two Revision Petitions [CRPs No. 4620 and 4988 of 2005] filed by the respondents against the order dated 2nd April, 2005, passed by the Appellate Authority, were allowed by the High Court vide order dated 19th September, 2006 on the ground that the proceedings initiated by the legal heirs of the protected tenants went uncontested before the Appellate Authority. Accordingly, the appeals were remitted back to the Appellate Authority for fresh consideration. On remand, the said appeals were disposed of by the Appellate Authority on merits vide order dated 23rd March, 2013. The second set of Revision Petitions filed by the respondents questioning the said decision, were turned down on merits by the common order dated 9th July, 2013, review whereof was also dismissed vide order dated 20th February, 2014.

31. The above chronology of events gains significance as it goes to amply demonstrate that several opportunities were available to the respondents if they really wished to file authenticated copies of the revenue records relating to the purported surrender proceedings before the Tehsildar which they did not avail of, for reasons best known to them. The first opportunity arose when the respondents challenged the *ex parte* order dated 2nd April, 2005 passed by the Appellate Authority when they filed two Civil Revision Petitions which were allowed and the matter was remanded back to the Appellate Authority for fresh consideration; the second opportunity arose when the Appellate Authority re-considered the appeals remitted by the High Court and passed an order dated 23rd March, 2013, in favour of the predecessors-in-interest of the appellant; the third opportunity arose when the respondents preferred a second set of Civil Revision Petitions assailing the order dated 23rd March, 2013 that culminated in the common judgment and order dated 9th July, 2013 passed by the High Court; the fourth opportunity arose when the respondents filed two review applications for seeking review of the common judgment and order dated 9th July, 2013, that came to be dismissed vide order dated 20th February, 2014; and the fifth opportunity arose when the respondents preferred petitions for special leave to appeal before this Court being aggrieved by the common judgment and orders dated 9th July, 2013 and the review order dated 20th February, 2014 passed by the High Court.

32. Pertinently, this Court had declined to entertain the said petitions preferred by the respondents but having regard to the submission made on their behalf that they would be in a position to file documents to show that there was surrender of tenancy on the part of the protected tenants and their legal heirs, it was left open to the respondents to file a review petition before the High Court. It was only thereafter that the respondents woke up to filing certified copies of those documents, xerox copies whereof had already been filed by them in the second round of revision petitions preferred before the High Court. That being the position, the respondents cannot be heard to state that the documents in question were not to their knowledge or that the certified copies of the revenue record could not be produced by them before the High Court passed the common judgment and order dated 09th July, 2013. At the time of filing the second set of review petitions, the respondents raised a plea that the learned Single Judge did not consider the relevant record produced by them regarding the surrender proceedings and had erroneously returned a finding that the file relating to surrender of the land by the protected tenants in the year 1967, was manipulated by ante-dating the same after the land ceiling was finalized by the Land Ceiling Tribunal. However, apart from the bald averment by the respondents that the documents were not considered, which averment has been replicated in the impugned order, a perusal of the earlier judgment of the High Court does not suggest any such non-consideration. Rather, it appears that the High Court considered the records available before it, which included the copies of the revenue records as admitted by the parties and passed certain observations."

33. A perusal of the averments made in the second set of review petitions shows that there is no explanation offered regarding discovery of new material in the form of the documents sought to be filed. When it is the case of the respondents themselves that the relevant documents were all along available in the revenue records and they had already filed xerox copies thereof during the second revision proceedings, they can hardly be heard to state that the said documents were unknown to them and were unavailable for being produced before the learned Single Judge prior to passing of the common

judgment and order dated 9th July, 2013. It is evident from the above that the respondents had not discovered any new material for them to have moved a second set of review petitions. In order to satisfy the requirements prescribed in Order XLVII Rule 1 CPC, it is imperative for a party to establish that discovery of the new material or evidence was neither within its knowledge when the decree was passed, nor could the party have laid its hands on such documents/evidence after having exercised due diligence, prior to passing of the order. What to speak of conclusive proof of having undertaken an exercise of due diligence for accessing the relevant documents, there is not an averment made by the respondents in the second set of review petitions to the effect that they could not trace the documents in question earlier or that they had made sincere efforts to obtain certified copies thereof before the common order dated 9th July, 2013 was passed, but could not do so for some cogent and valid reasons.

34. In other words, nothing has been stated on affidavit to substantiate the plea taken by the respondents at such a belated stage that the documents sought to be filed by them with the second set of review petitions had come to light after passing of the judgment and order dated 9th July, 2013. Under the garb of the liberty granted to them, the respondents have tried to fill in the glaring loopholes and introduce evidence in the review proceedings that was all along in their power and possession and ought to have seen the light of the day much earlier. In fact, it appears that the Civil Revision Petitions were originally argued to the hilt on several other grounds, not limited just to the revenue record, which were all considered and turned down as meritless. Therefore, we have no hesitation in holding that non-production of the relevant documents on the part of the respondents at the appropriate stage cannot be a ground for seeking review of the judgment and order dated 9th July, 2013 particularly, when five opportunities enumerated in para 31 above, were available to them for production of the said documents, which were all frittered away, one by one.

35. In our opinion, even otherwise, recourse to successive review petitions against the same order is impermissible more so, when the respondents have miserably failed to draw the attention of this Court to any circumstances that would entitle them to invoke review jurisdiction within the ambit of the Rules. Under the rules, the respondents were not required to produce “genuine” documents but new documents/evidence that was not within their knowledge and could not have been so even after exercise of due diligence, which could have turned the tables in their favour. Nor has any error apparent on the face of the record been brought out by them.

36. Given the above facts and circumstances, we are of the firm view that the second set of review petitions were nothing short of an abuse of the process of the court and ought to have been rejected by the High Court as not maintainable, without having gone into the merits of the matter. In the result, the present appeals are allowed. The impugned judgment dated 29th April, 2022, is set aside and the common judgment and order dated 9th July, 2013 passed in CRP No.2786/2013 and CRP No. 2787 of 2013, is restored.

37. Parties are left to bear their own expenses.