



2026:CGHC:17020-DB

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

REVP No. 60 of 2018

Reserved on 19/03/2026

Pronounced on 13/04/2026

Amit Kumar Singh S/o Prakash Singh, Aged About 46 Years, R/o A-1,
Shailender Nagar, Raipur Chhattisgarh.

... Petitioner

versus

1 - Smt. Ashraf Bano W/o Late Sh. Mehendi Mohammed Farishta, R/o Army
Welfare Housing Colony, Hyderabad District (Andhra Pradesh),

2 - Murad Farishta, S/o Late Sh. Mehendi Mohammed Farishta, R/o Army
Welfare Housing Colony, Hyderabad District (Andhra Pradesh),

3 - Malik Mohammad Farishta, S/o Late Sh. Mehendi Mohammed Farishta,
R/o Army Welfare Housing Colony, Hyderabad District (Andhra Pradesh),

4 - Union Bank Of India, Through Its Manager, Mahaveer Gaushala Complex,
K.K. Road, District Raipur Chhattisgarh.

5 - Satyaprakash Jhunjunwala, S/o R.P. Jhunjunwala, R/o MIG D-12,
Shailendra Nagar, Raipur Chhattisgarh.

... Respondents

For Petitioner : Mr. Rajeev Shrivastava, learned Senior
Counsel appears along with Mr. Gagan
Tiwari, Mr. Anuroop Panda and Mr. Kaif Ali
Rizvi, Advocates.

For Respondents No. 1 to 4 : None.

For Respondent No.5 : Mr. Yogesh Pandey, Advocate.

**DB: Hon'ble Shri Justice Sanjay S. Agrawal &
Hon'ble Shri Justice Amitendra Kishore Prasad**

C A V Order

Per **Sanjay S. Agrawal, J.**

1. This review petition has been preferred by the petitioner/plaintiff under Order 47 Rule 1 of the Code of Civil Procedure, 1908, questioning the legality and propriety of the judgment and decree dated 05.04.2018 passed by the Co-ordinate Bench of this Court in First Appeal No.142/2011, dismissing the plaintiff's claim for declaration of title, injunction and also for the specific performance of contract, while affirming the judgment and decree dated 21.06.2011 passed in Civil Suit No. 11-A/2011. The parties shall be referred hereinafter as per their description before the trial Court.
2. From perusal of the record, it appears that the disputed building situated at Shailendra Nagar, Raipur, described in detail in plaint Schedule, was agreed to be sold by defendants No. 1 to 3 and their predecessor-in-interest, namely, Mehandi Mohammed Farishta (hereinafter referred to as "the Vendors") to the plaintiff under the agreement to sale, dated 14.12.1993 (Ex.P-2) while putting him in possession thereof after receiving the entire sale consideration of Rs.8,10,500/- (Rupees Eight Lacs Ten Thousand and Five Hundred).
3. According to the plaintiff, said Vendors while suppressing execution of the alleged agreement (Ex.P-2), have mortgaged the

disputed building with the defendant No.4- Union Bank of India for security of the loan amount advanced to M/s Raipur Luggage Private Limited and, the said Bank for the recovery of the loan amount has filed an application before the Debt Recovery Tribunal at Jabalpur, registered as Case No. 19/2000 and vide order dated 27.09.2000, the Bank was held to be entitled for the recovery of sum of Rs.48,93,700.43 (Rupees Forty Eight Lacs Ninety Three Thousand Seven Hundred and Paise Forty Three only) and, the appeal, preferred against the said order dated 27.09.2000, was dismissed by the appellate tribunal vide its order dated 13.07.2004 in Appeal Case No.12/2004 and, thereafter, the alleged disputed building was put in auction for recovery of the said decretal amount, where the same was purchased by the defendant No.5 on 12.01.2004 for a consideration of Rs.36,26,000/- (Rupees Thirty Six Lacs Twenty Six Thousand only).

4. It appears further that the plaintiff's claim instituted on 25.06.2002 based upon an alleged agreement to sale dated 14.12.1993 for declaration of title, injunction and for the specific performance of contract was dismissed by the trial Court vide its judgment and decree dated 21.06.2011 in Civil Suit No.11-A/2011, holding inter alia, that though the alleged agreement was executed in favour of the plaintiff on 14.12.1993, but is not entitled to get a decree for specific performance of contract as neither the court fee to this effect was paid, nor the suit was instituted within the prescribed period of three years from the date of the execution of the alleged agreement.

5. The dismissal of the aforesaid claim as such was affirmed by the Co-ordinate Bench of this Court in First Appeal No. 142/2011 in appeal preferred by the plaintiff, holding inter alia, that the claim as made is not only barred by jurisdiction under Section 18 of the Recovery of Debts and Bankruptcy Act, 1993, but is barred by time as well and, the Special Leave Petition preferred there against was dismissed by the Supreme Court vide its order dated 14.05.2018 in Special Leave to Appeal (C) No.(s) 10499/2018 and now, the instant petition has been filed seeking review of the impugned judgment and decree dated 05.04.2018 passed in First Appeal No. 142/2011.
6. It is the contention of the counsel appearing for the plaintiff based upon the alleged agreement to sale dated 14.12.1993 that since the Vendors, upon receiving the entire sale consideration, have delivered the possession of the disputed building to the plaintiff, therefore, his possession is to be protected by virtue of the provision prescribed under Section 53-A of the Transfer of Property Act, 1882 (hereinafter referred to as “the Act, 1882”). Having failed to consider the same in its proper manner, the impugned judgment and decree, therefore, deserves to be reviewed, as the said mistake committed by the Co-ordinate Bench of this Court, is apparent on the face of the record and, is to be corrected under the review jurisdiction provided under Order 47 Rule 1 of C.P.C.
7. While opposing the aforesaid contention, it is contended by the counsel appearing for the defendant No.5 that the impugned

judgment and decree has been drawn after considering the entire evidence placed on record elaborately, including the said provision of Section 53-A of the Act, 1882, therefore, it cannot be said that any mistake was committed while dismissing the plaintiff's appeal and that is the reason why the Special Leave Petition preferred there against was dismissed by the Supreme Court.

8. We have heard learned counsel appearing for the parties and perused the entire record.
9. In the instant matter, as revealed from the averments made in the plaint, the plaintiff has claimed not only for the declaration of title and injunction, but has prayed also for a decree of specific performance of contract much beyond the prescribed period of limitation even without paying the court fee to this effect. The claim for specific performance of contract was, thus, held to be dismissed on the point of limitation, apart from declining him to be the owner of the disputed building based upon the alleged unregistered agreement to sale, as the right, title and interest over an immovable property would confer upon only by way of a registered document.
10. Insofar as, the contention of the counsel appearing for the plaintiff based upon the provision prescribed under Section 53-A of the Act, 1882, is concerned, that since the plaintiff has been put in possession over the disputed building in pursuance to the alleged agreement to sale dated 14.12.1993, therefore, he is entitled to get the protection of his possession against the defendants No.4- Union Bank of India and No.5- Satyaprakash Jhunjhunwala, is

however, noted to be rejected as they were not the party to the alleged agreement, so as to get protection with the aid of said provision. Even otherwise, the said objection, though, not raised before the trial Court has been considered elaborately and negated by the Co-ordinate Bench of this Court. As such, it would not be amenable to be re-agitated under the review jurisdiction, as according to the provision prescribed under Order 47 Rule 1 of C.P.C., the review can be made only under the following three circumstances :-

- (a) 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
- (b) on account of some mistake or error apparent on the face of the record; or
- (c) for any other “sufficient reasons”.

11. In absence of the aforesaid circumstances, no review is permissible. Review does not mean re-appreciation of evidence or re-writing of the judgment or re-examining its earlier judgment, which is within jurisdiction of the appellate court. In other words, the scope of appeal is altogether different than that of review. Once the ground canvassed is considered and finding is given after such consideration, it then cannot be termed as a “mistake” apparent on the face of record.
12. In the instant matter, the reasons assigned for review of the impugned judgment and decree are not sustainable in the eye of law, as we do not find any mistake which could be said to be

apparent on the face of the record, so as to call for any interference in the impugned judgment and decree as held by the Supreme Court in the matter of **Perry Kansagra v. Smriti Madan Kansagra**, reported in **(2019) 20 SCC 753**, wherein it has been held at paragraph 17 as under:-

"17. We have gone through both the judgments of the High Court in the instant case and considered rival submissions on the point. It is well settled that an error which is required to be detected by a process of reasoning can hardly be said to be an error apparent on the face of the record. To justify exercise of review jurisdiction, the error must be self-evident. Tested on this parameter, the exercise of jurisdiction in the present case was not correct. The exercise undertaken in the present case, in our considered view, was as if the High Court was sitting in appeal over the earlier decision dated 17.02.2017. Even assuming that there was no correct appreciation of facts and law in the earlier judgment, the parties could be left to challenge the decision in an appeal. But the review was not a proper remedy at all. In our view, the High Court erred in entertaining the review petition and setting aside the earlier view dated 17.02.2017....."

13. Similar was the view taken earlier by the Supreme Court in the matter of **Parsion Devi and others vs. Sumitri Devi and others**, reported in **(1997) 8 SCC 715**, wherein it has been held at para 9 which is relevant for the purpose reads as under:-

"9. Under Order 47 Rule 1 CPC 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 1 CPC. In exercise of the 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".

- 14.** In view of the principles laid down by the Supreme Court in the aforesaid matters, *vis-a-vis*, the dismissal of the Special Leave Petition, we, therefore, do not find any substance in this petition, so as to call for any interference in the impugned judgment and decree under the review jurisdiction.
- 15.** Consequently, the review petition is dismissed.
No order as to cost(s).

**Sd/-
(Sanjay S. Agrawal)
Judge**

**Sd/-
(Amitendra Kishore Prasad)
Judge**

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