

MADHYA PRADESH REAL ESTATE
APPELLATE TRIBUNAL AT BHOPAL

MJC-44/2025
Institution Date :24/09/2025

Before

Hon’ble Justice Shri B.K. Dwivedi, Chairperson
Hon’ble Shri P.C. Gupta, Member (Judicial)

Madhya Pradesh Real Estate Regulatory Authority
Through Secretary
RERA Bhawan, 1 Main Road, Arera Hills,
Bhopal (M.P.) : Applicant

Versus

1. Shri Yatindra Agarwal
S/o Bal Krishna Agarwal
R/o 476, Alok Nagar, Kapadiya Road,
Indore (M.P.) : Non-Applicant No.1.
2. M/s Greenland Shelters Pvt. Ltd.
Through Arvind Vanjari
101-102/BM Tower, Sapna Sangeeta Road,
Indore (M.P.) : Non-Applicant No.2.

Counsel for the parties

For the Applicant :Adv. Aryan Gupta
For the Non-Applicant No. 1: Adv. Parth Kochatta
For the Non-Applicant No. 2: None

ORDER

(Delivered on-20/07/2026)

Per ,P.C. Gupta Member (Judicial),

This review petition filed under Order 47 Rule 1 CPC, 1908 has been preferred by the Real Estate (Regulation and Development), Authority (for short, hereinafter will be referred as, 'the Authority') through its Secretary against impugned order dated 24/06/2025 passed by this Tribunal in appeal A-132/2021 (Yatindra Agrawal Vs M/s Greenland Shelters Pvt. Ltd.) whereby appeal has been allowed and

impugned order dated 22/07/2019 passed by the Authority in case no. N-IND-19-0167 and order dated 30/11/2019 passed by the Adjudicating Officer has been set aside and matter has been remitted back to the Authority with certain directions for deciding the matter afresh after affording opportunity of hearing and taking in the view the provision of Section 7, 8 and 59 of the Real Estate (Regulation and Development), Act 2016 (for short hereinafter will be referred as, 'the Act')

02. Brief facts of the case are that Respondent No.1 (appellants before this Tribunal in appeal no. A-132/2021) entered into an agreement with Respondent No.2 on 03/04/2011 for purchasing plot ad-measuring 1250 square feet, plot no. 056 for Rs. 04,37,500/- and amount of Rs 03,99,210/- was paid. But even after passing of 8 years neither project was developed nor possession of the plot was handed over to Respondent No.1, hence, they filed complaint before the Authority for directing concerned to hand over the possession of the aforesaid plot. Even after notice none appeared for Respondent No. 2, M/s Greenland Shelters Pvt. Ltd. Therefore, after hearing Respondent No. 1 vide order 22/07/2019 Respondent No. 2 was directed by Authority to refund Rs. 03,99,210/- to the Respondent no. 1 with the interest with observations that Adjudicating Officer will decide interest and compensation amount. Adjudicating Officer vide order dated 30/11/2019 fixed rate of interest and amount of compensation. Being aggrieved by the aforesaid orders passed in appeal no. A-132/2021 filed by the Respondent No.1 wherein by impugned orders dated 24/06/2025, order dated 22/07/2019 and 30/11/2019 have been set aside with certain observations and directions which is under review in this instant case.

03. Ld. Counsel for the Authority submits that Ld. Tribunal has failed to make Authority the party in appeal and therefore it could not put forth its view and principles of natural justice have also not been followed. Adverse

observations in para 14 and 15 of the order has been made against the Authority which are uncalled for as they have been made without affording opportunity of hearing to the Authority. Judgments referred in para 18 have not been appreciated and considered in right perspective therefore and prays for allowing review petition by setting aside the impugned order.

04. *Per contra* Ld. counsel for the Respondent No. 1 and 2 submits that order passed by the Tribunal in appeal no. 132/2021 dated 24/06/2025 has been passed taking into account all the documents available on record and after affording opportunity of hearing by the parties concerned. Even though Authority was not a party. Order under challenge was passed by the Adjudicating Officer acting on behalf of the Appellant hence no grievance can be raised in this behalf that Authority has not been heard. To buttress his submission, he has placed reliance on judgment passed by the Apex Court in *Jaswant Singh Lamba Vs Haryana Agricultural University and Ors. (2008) 5 Supreme Court Cases 656, Sasi (Dead) Through Legal Representatives Vs Aravindakshan Nair and Ors. (2017) Supreme Court Cases 692, Kamlesh Verma Vs Mayawati and Ors (2013) 8 Supreme Court Cases 320 and Parison Devi and Ors. Vs Sumitri Devi and Ors (1997) 8 Supreme Court Cases 715.*

05. Ld. counsel further submits that scope of review petition is limited one and it cannot be used in guise of appeal and therefore, pray for dismissing the review petition and directing the Authority to comply with the directions contained in impugned order dated 24/06/2025.

06. Heard and considered the rival contentions of the parties and perused the record.

07. In Section 53 (4) (e) of the Act, it has been specifically provided that this Tribunal has power of reviewing its decisions. Since no other provision in Act governing procedure for review therefore, Section 114 and

Order 47 Rule 1 of CPC will be applicable. It is not in dispute that review petition can be entertained when there is 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 but it is well settled that once order has been legally passed it cannot be review in guise of appeal. Hon'ble Apex Court in "**Arundev Upadhyay vs. Integrated Sales Service Limited 2023 (8) SCC 11.**" after referring and relying upon various judgments, Apex Court has held in para 31 to 35 which reproduced as under:-

"31. Another case which may be briefly dealt with is Parsion Devi v. Sumitri Devi [Parsion Devi v. Sumitri Devi, (1997) 8 SCC 715], where, this Court ruled that 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. It also observed that a review petition cannot be allowed to be treated as an appeal in disguise.

32. A series of decisions may also be referred to wherein, it has been held that power to review may not be exercised on the ground that decision was erroneous on merits as the same would be the domain of the court of appeal. Power of review should not be confused with appellate powers as the appellate power can correct all manners of errors committed by the subordinate courts. The following judgments may be referred:

- (1) Shivdev Singh v. State of Punjab*
- (2) Aribam Tuleshwar Sharma v. Aribam Pishak Sharma*
- (3) Meera Bhanja v. Nirmala Kumari Choudhury*
- (4) Uma Nath Pandey v. State of U.P.*

33. Recently, this Court in a judgment dated 24-2-2023 passed in S. Murali Sundaram v. Jothibai Kannan [S. Murali Sundaram v. Jothibai Kannan,

(2023) 13 SCC 515 : 2023 SCC OnLine SC 185], observed that even though a judgment sought to be reviewed is erroneous, the same cannot be a ground to review in exercise of powers under Order 47 Rule 1CPC. Further, in Perry Kansagra v. Smriti Madan Kansagra [Perry Kansagra v. Smriti Madan Kansagra, (2019) 20 SCC 753] , this Court observed that while exercising the review jurisdiction in an application under Order 47 Rule 1 read with Section 114 CPC, the review court does not sit in appeal over its own order.

34. In another case between Shanti Conductors (P) Ltd. v. Assam SEB [Shanti Conductors (P) Ltd. v. Assam SEB, (2020) 2 SCC 677 : (2020) 2 SCC (Civ) 788] ,this Court observed that scope of review under Order 47 Rule 1 read with Section 114CPC is limited and under the guise of review, the petitioner cannot be permitted to reargue and reargue questions which have already been addressed and decided. It was further observed that 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 record.

35. From the above, it is evident that a power to review cannot be exercised as an appellate power and has to be strictly confined to the scope and ambit of Order 47 Rule 1CPC. An error on the face of record must be such an error which, mere looking at the record should strike and it should not require any long-drawn process of reasoning on the points where there may conceivably be two opinions”.

08. When we consider this review petition in the light of aforesaid judgment, it is found that the impugned order passed by this Tribunal is well reasoned order. Since there was no material placed with regard to action taken by the Authority under Section 59 of the Act, therefore, it has been mentioned that Authority should have considered taking action under the aforesaid Section also. Order dated 02/04/2024 which has been referred by the counsel appearing on behalf of the Authority reveals that only Rs. 01.00 lakh has been imposed as fine under Section 59 of the Act which does not appear to be compliance of the aforesaid order in the real sense. Sections 7 and 8 have not been complied with therefore all these facts have been mentioned

in the impugned order. We are of view that no ground for review is made out even if some action as mentioned by the counsel appearing on behalf of the Authority under Section 59 of the Act has been taken. If even after imposition of penalty if Respondent no.2 had not got registered his project action should have been proposed under Section 59(2) of the Act for initiating criminal action against him and that has not been done by the Authority.

09. In the light of aforesaid, it is found established that no ground for this review is made out. Therefore, this review petition which is devoid of any substance deserves to be and is hereby dismissed with direction to the Authority to comply with the directions given in the aforesaid order at the earliest in accordance with the Act and Rules after providing an opportunity of reasonable hearing to the parties concerned.

10. No order as to cost.

11. Copy of this order be provided to the parties free of cost.

12. Copy of this order be sent to the Secretary, RERA for information and necessary compliance.

13. One copy of this order be annexed in A-132/2021 and record be sent back to the record room of Tribunal.

14. After noting the result, case be consigned to the Record Room.

Sd/-
(JUSTICE B.K. DWIVEDI)
CHAIRPERSON

Sd/-
(P.C. GUPTA)
MEMBER (J)

Date: 20/07/2026

Place: Bhopal