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ORISSA HIGH COURT : CUTTACK

RVWPET No.75 of 2024

CNR NO.ODHC010266232024

In the matter of an Application under Section 114
read with
Order XLVII of the CPC
and
Order XLVII of the CPC read with Chapter XII, Rule 34 of
High Court of Orissa Rules, 1948

* * *

- 1.** Manoj Kumar Das
Aged about 59 years
Son of Late Prasanna Kumar Das
Resident of Village: Baselisahi
P.S.: Baselisahi, Town/District: Puri.
- 2.** Arati Das
Aged about 57 years
Daughter of Late Prasanna Kumar Das.
- 3.** Binapani Das
Aged about 55 years
Daughter of Late Prasanna Kumar Das.
- 4.** Nrusingh Das
Aged about 52 years
Daughter of Late Prasanta Das.

All are Residents of Baselisahi
P.O.: Puri, P.S.: Baselisahi
District: Puri.

...

Petitioners

-VERSUS-



1. State of Odisha
Represented through
Secretary
Revenue Department
Secretariat Building
At: Bhubaneswar
District: Khordha.
2. The Revenue Divisional Commissioner
Central Division, Cuttack.
3. The Collector-*cum*-District Magistrate
Puri, At/P.O./P.S.: Puri.
4. The Tahasildar, Puri
At/P.O./P.S.: Puri. ... Opposite parties.

Counsel appeared for the parties:

For the Petitioners : Mr. Surya Prasad Misra,
Senior Advocate assisted by
M/s. Soumya Mishra, Sakshi Rout,
Omkar Panda and G.N. Parida,
Advocates.

For the Opposite parties : Mr. Sanjib Kumar Swain,
Additional Government Advocate

P R E S E N T:

**HONOURABLE CHIEF JUSTICE
MR. HARISH TANDON**

AND

**HONOURABLE JUSTICE
MR. MURAHARI SRI RAMAN**

Date of Hearing : 29.06.2026 :: Date of Judgment : 03.08.2026



JUDGMENT

MURAHARI SRI RAMAN, J.—

The petitioners claiming to be the legal heirs of late Prasanna Kumar Das, ex-serviceman of Indian Navy, perceiving error apparent on the face of the record in the judgment dated 7th March, 2024 passed in W.P.(C) No.23521 of 2013, have come up before this Court by filing this review petition for grant of following relief(s):

“The review petitioners therefore, pray before this Hon’ble Court that in view of the grounds indicated above, the same may be re-considered and this Hon’ble Court may graciously be pleased to:

- (a) allow this review petition after hearing both the parties and admit the same on the grounds as indicated above;*
- (b) the judgment dated 07.03.2024 passed by this Hon’ble Court in W.P.(C) No.23521/2013 be reviewed to the effect indicated above, the writ petition vide W.P.(C) No.23521 of 2013 be restored to its file and heard afresh by giving an opportunity of hearing to the parties;*

And may pass any other order(s), direction(s), as this Hon’ble Court may deem fit and proper;

And for this act of kindness the review petitioners shall as in duty bound ever pray;

- 2.** The case, adumbrated in nutshell by the petitioner in the review petition, unfurls that the Government of



Odisha in Home Department declared late Sri Prasanna Kumar Das, who served the Indian Navy and retired on 20.09.1967, eligible for “concession of 5 acres of land” in pursuance of Home Department Letter No.28888/POLL, dated 1st December, 1966, but the same was not allotted in his favour, which compelled him to file an application before the Tahasildar, Puri on 07.12.1988.

2.1. In consideration thereof, the Tahasildar, Puri in Army/Jawan Lease Case No.07 of 1988 *vide* order dated 5th July, 1995 settled “the land of Ac.5.00 decimals out of Ac.120.00 decimals in Mouza:Jagadal under Khata No.537, Plot No.798, non-irrigated land on lease basis” with certain conditions. Though entries in the Record-of-Right in respect of aforesaid land were made in favour of Late Sri Prasanna Kumar Das, no physical delivery of possession was effected by the State/Tahasildar. Since records were not traceable, the said late Sri Prasanna Kumar Das applied before the Public Information Officer, Brahmagiri, Tahasil for supply of certified copy of Record-of-Right, whereby non-availability of the Record-of-Right was informed on 23.06.2011.

2.2. Being aggrieved thereby, the deceased father of the petitioners filed writ petition bearing W.P.(C) No.3081 of 2004. It is asserted that during pendency of said writ petition on the death of petitioner-Sri Prasanna Kumar Das on 29th May, 2012, the natural heirs, being



substituted in his place, sought permission to withdraw the writ petition with liberty to file afresh, which was allowed by this Court *vide* order dated 22nd April, 2013 with the following observation:

“Learned counsel for the petitioner wants to withdraw the present writ application with liberty to file a fresh application.

Accordingly, the writ petition stands dismissed as withdrawn with the liberty sought for.”

2.3. Pursuant thereto, the writ petition being W.P.(C) No.23521 of 2013 was filed before this Court by the legal heirs of late Sri Prasanna Kumar Das with a prayer for issue of writ of *mandamus* to the opposite parties to handover the possession of land allotted in their favour as directed by the Tahasildar, Puri *vide* order dated 5th July, 1995 in Jawan Lease Case No.7 of 1988.

3. Sri Surya Prasad Mishra, learned Senior Advocate representing the petitioners, submitted that after filing of said writ petition, certain documents received under the Right to Information Act, 2005, were filed on 24th February, 2024 by way of an additional affidavit. Upon hearing the learned counsel for the parties on 29th February, 2024, the matter was kept reserved and a judgment was delivered on 7th March, 2024 on consideration of averments, contentions and arguments *vis-à-vis* documents enclosed with the writ petition.



3.1. He further submitted that had the petitioners been aware of the Resolution bearing No.20827-POLL, dated 7th July, 1969 issued by the Government of Odisha in Home Department, the resultant of the case would have been tilted in favour of the petitioners. He sought to rely of said resolution along with Clarification thereto issued by the Government of Odisha in Revenue and Excise Department *vide* No. (GL)-S-123/86 48798, the 2nd August, 1986, which read as follows:

“In the context of the Emergency arising out of external aggression the State Government had decided under the above Resolution to extent certain facilities to the personnel of the Indian Army, Navy, Air Force as also other allied personnel as specified in the Resolutions and orders issued thereunder, serving in the forward areas, on a review of the progress of implementation of the above Resolutions it had been found as necessary to lay down specific principles for extending such facilities with a view to avoid misconception in this regard and to ensure that such facilities are provided to personnel for whom these are intended. On a careful consideration of all the relative aspect having a bearing on this matter, the State Government have, therefore, been pleased to decide as follows:

- (A) *The concessions by way of assignment of land, medical facilities and educational facilities contemplated under the above Resolutions will be available only such personnel who have served in the forward areas during the period from the 26th October, 1962 to the 31st January, 1964. For this purpose, the personnel seeking such concessions*



will be required to produce a certificate from the Unit Command that he actually served during the above period in a forward area.

- (B) Dependent families of the personnel killed in action with the above period will also be eligible to similar concessions.*
- (C) It is provided in the above resolutions that the facilities will be made available only to those who are unable to manage without some form of assistance from the Government. This conditions will no longer be in force.*
- (D) The facility of assignment of land will be available only to such personnel who are 'Landless'. A person shall be deemed to be landless if the total extent of his land along with the land hold as a tenant or raiyat by all members of his family living with him in one mess is less than 5 acres.*

The principles regulating the grant of facilities as also the relative procedure laid down in the above Resolutions will be modified in terms this Resolution.

Orders

Ordered that this Resolution be published in the Orissa Gazettee for the information of the general public and copies be forward to all Departments of Government/all Heads of Departments/All Revenue Divisional Commissioners/All District Magistrates/All District and Sessions Judges/Secretary to Orissa Public Service Commission/Secretary to Government."



*“Government of Orissa
Revenue and Excise Department, Orissa, Bhubaneswar.
No. (GL)-S-123/86— 48798, the 2nd August,
1986.
Bhubaneswar*

From:

*Shri R.K. Rout, O.A.S.,
Joint Secretary to Government.*

To

*The Secretary,
Board of Revenue, Orissa, Cuttack.*

Sub: Clarification on allotment of Land to Ex-serviceman.

Sir,

I am directed to say that as per Home Deptt. Resolution No.11323 dated 14.05.1963 and PO 20827 dated 07.07.1969 Jawan's who have served in the forward areas during the period from 26.10.62 to 31.01.1964 are eligible for settlement of Govt. Waste land up to 5 acres free of premium.

According to the provisions in the OGLS Act and Rules Jawan's as such do not qualify for settlement of Govt. Land. Besides settlement of Govt. Waste Land for agricultural purposes with any one cannot exceed one standard acre. So according to the Odisha Government Land Settlement Act and rules made thereunder a Jawan as such is not eligible for Settlement of Agricultural Land. Some collectors have rightly expressed doubts regarding Settlement of Land with Jawans.



Since it is not possible for settlement of Govt. Waste Land upto 5 acres with the Jawans in terms of the aforesaid resolution of the Home Deptt. Within the existing provisions of OGLS Act and Rules thereunder. Government after careful consideration have been pleased to decide that such settlement shall be made within the ambit of Govt. Grants Act, 1895 keeping in view the nature of concession as a reward.

Under Government Grants Act, 1895 sanction of Govt. Land is to be done by the Government There would be considerable delay if all such cases are referred to the Government for sanction. In consideration of this difficulty it has further been decided that Tahasildars will be competent to settle land with aforesaid category of Jawans under provisions of the Government Grants Act, 1895 conferring the status of a raiyat as defined under the OLR Act, 1960¹.”

- 3.2. It is submitted that till the date of hearing of the writ petition, the petitioners had no knowledge about the said Resolution and the Clarification. Laying stress upon Clause (D) of Resolution dated 7th July, 1969, it is submitted that since the facility of assignment of the land would be available only to the landless personnel, the petitioners being natural heirs of late Sri Prasanna Kumar Das, who served the Indian Navy, are entitled to be settled with five acres of land.

¹ The Odisha Land Reforms (General) Rules, 1965.



4. Sri Sanjib Kumar Swain, learned Additional Government Advocate appearing for the opposite parties opposing the submissions and contentions of the learned Senior Advocate appearing for the petitioners submitted that this Court having perused the record and after hearing the learned counsel for both the parties, delivered judgment taking note of the fact and the legal perspective of the matter. He, therefore, contends that the grounds for review as contemplated in the review petition do not fall within the scope and ambit of review jurisdiction of this Court.
5. Heard learned Senior Advocate appearing for the petitioners and learned Additional Government Advocate appearing for the State-opposite parties.
6. On perusal of record, considering the grounds taken in the review petition, this Court is not persuaded that though the documents sought to be relied on in course of hearing in order to seek review of the judgment rendered in the writ petition. Inasmuch as the said resolution and the clarification thereto having not been placed for consideration at the time of hearing of the writ petition, it is inappropriate to consider the same in the review petition by tinkering with the merit of the judgment.



6.1. Even if the case law in the case of *Lily Thomas Vrs. Union of India*, (2000) 6 SCC 224, referred to in course of hearing by Sri Surya Prasad Misra, learned Senior Advocate, is taken note of for the purpose of assessing the jurisdiction of this Court to exercise power of review, the same would not come to the rescue of the review petitioners. In the said reported decision, the following is the view expressed by the Hon'ble Supreme Court of India:

“It follows, therefore, that the powers of review can be exercised for correction of a mistake and 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 an appeal in disguise. The mere possibility of two views on the subject is not a ground for review.”

6.2. While considering the merit of the matter, this Court referred to Resolution dated 14th May, 1963 and also amendment thereof vide Resolution dated 11th April, 1964, found that the property as directed in the order dated 5th July, 1995, the Tahasildar, Puri had never given physical possession. Nonetheless, with reference to ground Nos.C and D of paragraph 4 of the Review Petition, it is sought to be suggested by the learned Senior Advocate that at paragraph 7.5 and paragraph 7.6 read with paragraph 10 of the judgment there is apparent error of record which necessitated filing of the



petition seeking review of the judgment rendered in the writ application. Elaborating further he urged that having regard to order dated 05.07.1995 by which the application of late Prasanna Kumar Das for grant of Government land as concession was allowed by the Tahasildar, Puri, thereby allotting an area of 5 acres of non-irrigated land out of total area of Ac.120.00 decimals situated in mouza: Jagadal under Khata No. 537, Plot No. 798 and further, having regard to the fact that pursuant to order of the Tahasildar, Puri, late Prasanna Kumar Das was granted with the Record-of-Right in respect of the land appertaining to Sabik Khata No. 537, Plot No. 798 corresponding to Hal Khata No. 516/284 and Hal Plot No. 798/2896 measuring an area of Ac.5.00 decimals in Puri Tahasil [erstwhile Brahmagiri Tahasil], there remains nothing to be adjudicated *vis-a-vis* the rights of the Petitioners in respect of the land allotted in their favour. Therefore, he would submit that it is not disputed that the said order of the Tahasildar, Puri in granting the lease in favour of late Prasanna Kumar Das has not been challenged by the State before the competent Court of law and as such the grant continues to remain in vogue. Hence he vociferously submitted that there emerge no disputed questions of involving the *lis* between the parties *vis-a-vis* establishment of right in favour of the petitioners, except the fact that the land allotted/granted in favour of the



late Prasanna Kumar Das is to be delivered by the State in favour of the present petitioners who are the legal heirs and are entitled to the said grant made in favour of their father.

6.3. This Court though made the observations, as contended by the learned Senior Advocate, taking note of the prayer made in the writ petition that the opposite parties, more particularly the Tahasildar was required to be directed *“to handover possession of Ac.5.00 decimals of land in favour of the petitioners in Puri, Tahasil which was allotted in favour of their deceased father, Prasanna Kumar Das, **after identifying and demarcating** the same within a period fixed by this Hon’ble Court and **get the same mutated and recorded in favour of the petitioners**”* found the same to be adjudicated factually. Hence this Court declined to exercise of discretionary power under Article 226 of the Constitution of India.

6.4. Under such premise, having dismissed the writ petition, in garb of review, it is not apt to sit in appeal to re-appreciate the evidence and reconsider the material available on record which had already been considered.

6.5. This Court also took note of Resolution dated 19th February, 2014 of the Government of Odisha in Home Department published in Odisha Gazette Extraordinary No.480, dated 10th March, 2014 and decisions of this



Court rendered in *Pratima Mohanty Vrs. State of Odisha*, W.P.(C) No.27100 of 2013, *vide order dated 12.04.2021 [2021 (II) ILR-CUT 13]*, *Santosh Kumar Nath Vrs. Collector, Sambalpur*, W.P.(C) No.8364 of 2007, *vide order dated 15th March, 2021*, *Anil Palai Vrs. State of Odisha*, W.P.(C) No.80 of 2016, *vide order dated 31st May, 2021*, rejected the prayer of the petitioners, legal heirs of late Sri Prasanna Kumar Das. Since the documents, which are relied on at this stage cannot be said to have come to their knowledge. Had the petitioners applied due diligence, the same could have been placed before this Court in course of hearing of writ petition.

7. This Court is not oblivious of the following dicta of the Hon'ble Supreme Court of India rendered in the case of *Meera Bhanja Vrs. Nirmala Kumari Choudhury*, (1995) 1 SCC 170, wherein it was held that:

“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 Vrs. Aribam Pishak Sharma*, (1979) 4 SCC 389 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.'* ***"

- 7.1. Second innings sought to be played by way of review petition by the writ petitioners on the facts which were considered while disposing of the writ petition and placing new materials like notification/resolution and clarification it was contended that those vital materials were not in possession of the petitioners. A caveat: with due diligence such materials could have been in the possession and knowledge of the petitioners. One of the basic ingredients against review is a second chance on



the self-same material factual scenario which was before the writ Court. In *State of West Bengal Vrs. Jai Hind Pvt. Ltd.*, (2026) 2 SCR 497 it has been succinctly laid down as follows:

“75. A review can be sought under this ground by an aggrieved litigant on the discovery of a certain new and important matter or evidence, which, after exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed. A review of a judgment is a drastic step, and a reluctant resort to it is proper only where a glaring omission or patent mistake or a grave error has crept in earlier by judicial fallibility. A mere repetition, through different counsel, of old and overruled arguments, a second trip over ineffectually covered ground or minor mistakes of inconsequential import, are obviously insufficient, as was rightly held in *Sow Chandra Kante Vrs. Sk. Habib Sow*, (1975) 3 SCR 933. The provision is not meant to give a second chance to the aggrieved party who has lost their case due to their own negligence.

76. *** A party cannot justify a review by producing old documents lying in its own custody, as this does not constitute “discovery” nor satisfy the “due diligence” requirement.”

7.2. What constitutes “an error apparent on the face of the record” has been clarified by the Apex Court in the case of *Northern India Caterers (India) Ltd. Vrs. Lt. Governor of*



Delhi, AIR 1980 SC 674 = (1980) 2 SCC 167, wherein in paragraph 9 it has been held as follows:

“9. Now, besides the fact that most of the legal material so assiduously collected and placed before us by the learned Additional Solicitor General, who has now been entrusted to appear for the respondent, was never brought to our attention when the appeals were heard, we may also examine whether the judgment suffers from an error apparent on the face of the record. Such an error exists if of two or more views canvassed on the point it is possible to hold that the controversy can be said to admit of only one of them. If the view adopted by the Court in the original judgment is a possible view having regard to what the record states, it is difficult to hold that there is an error apparent on the face of the record.”

7.3. Error apparent on the face of the record is a condition precedent for exercise of review power. Following observation made in the case of *Rajender Kumar Vrs. Rambhai, AIR 2003 SC 2095* may be relevant:

*“*** The limitations on exercise of the power of review are well settled. The first and foremost requirement of entertaining a review petition is that the order, review of which is sought, suffers from any error apparent on the face of the order and permitting the order to stand will lead to failure of justice. In the absence of any such error, finality attached to the judgment/order cannot be disturbed.”*

It is not inept to note that the Supreme Court has cautioned in the very same judgment that,



*“*** 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 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. ***”*

7.4. Regard can be had to *Thungabhadra Industries Ltd. Vrs. Government of Andhra Pradesh*, (1964) 5 SCR 174 = 1963 INSC 213 = AIR 1964 SC 1372², wherein it is stated thus:

*“*** 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 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.** We do not consider that this furnishes a suitable occasion for dealing with this difference exhaustively or in any great detail, but it would suffice for us to say that **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,***

² Referred in *State of West Bengal Vrs. Jai Hind Pvt. Ltd.*, (2026) 2 SCR 497.



a clear case of error apparent on the face of the record would be made out. ***

7.5. The factual errors, if any, as being canvassed arduously by the learned Senior Counsel for the petitioners cannot be the basis for exercise of review jurisdiction. The position has been well established. Regard may be had to the following observation made in the case of *Asharfi Devi Vrs. State of Uttar Pradesh and others*, (2019) 5 SCC 86:

“It is settled law that every error whether factual or legal cannot be made subject-matter of review under Order 47 Rule 1 of the Code though it can be made subject-matter of appeal arising out of such order. In other words, in order to attract the provisions of Order 47 Rule 1 of the Code, the error/mistake must be apparent on the face of the record of the case.”

7.6. In *Jain Studios Ltd. Vrs. Shin Satellite Public Co. Ltd.*, (2006) 5 SCC 501 it has been laid down as follows:

*“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 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.***

7.7. In the case of *S. Murali Sundaram Vrs. Jothibai Kannan*, (2023) 13 SCC 515, the Hon’ble Supreme Court was observed as follows:

- “16. While considering the aforesaid issue two decisions of this Court on Order 47 Rule 1 read with Section 114 CPC are required to be referred to? In *Perry Kansagra Vrs. Smriti Madan Kansagra*, (2019) 20 SCC 753 this Court has 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. It is observed that a rehearing of the matter is impermissible in law. It is further observed that review is not appeal in disguise. It is observed that 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. It is further observed that it is wholly unjustified and exhibits a tendency to rewrite a Judgment by which the controversy has been finally decided.

17. *After considering a catena of decisions on exercise of review powers and principles relating to exercise of review jurisdiction under Order 47 Rule 1 CPC this Court had summed up as under: (Perry Kansagra case, (2019) 20 SCC 753:*

*‘33. *** ‘****

- (i) Review proceedings are not by way of appeal and have to be strictly confined to the scope and ambit of Order 47 Rule 1 CPC.*
- (ii) Power of review may be exercised when some mistake or error apparent on the fact of record is found. But error on the face of record must be such an error which must strike one on mere looking at the record and would not require any long-drawn process of reasoning on the points where there may conceivably be two opinions.*
- (iii) Power of review may not be exercised on the ground that the decision was erroneous on merits.*
- (iv) Power of review can also be exercised for any sufficient reason which is wide enough to include a misconception of fact or law by a court or even an advocate.*
- (v) An application for review may be necessitated by way of invoking the doctrine actus curiae neminem gravabit.’ (As observed in:*



Inderchand Jain Vrs. Motilal, (2009) 14 SCC 663, p. 675, para 33).'

It is further observed in the said decision that an error which is required to be detected by a process of reasoning can hardly be said to be an error on the face of the record.

18. *In Shanti Conductors (P) Ltd. Vrs. Assam SEB, (2020) 2 SCC 677, it is observed and held that scope of review under Order 47 Rule 1 CPC read with Section 114 CPC is limited and under the guise of review, the petitioner cannot be permitted to reagitate and reargue questions which have already been addressed and decided. **It is 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 justifying the court to exercise its power of review under Order 47 Rule 1 CPC.***"

8. The facts narrated hereinabove and submissions advanced by the learned Senior Advocate that the discovery of new materials, viz., Resolution and Clarification, which could have changed the ultimate view are vague and do not stand to reason inasmuch as it is observed that with due diligence such material could have been produced before this Court in course of hearing of writ petition. Furthermore, it is canvassed before this Court for review indicating that though there is no factual dispute, contrary has been held in the impugned judgment. Such argument is only to be



repelled inasmuch as the learned Senior Counsel required this Court to delve into the merit of the matter by revisiting. Recourse to review is abhorrence to exercise of jurisdiction.

8.1. In this regard, reference to *State of West Bengal Vrs. Jai Hind Pvt. Ltd.*, (2026) 2 SCR 497 would suffice, wherein it has been held as follows:

“79. Insofar as this ground is concerned, recently, this Court in the case of *State (NCT of Delhi) Vrs. K.L. Rath Steel Ltd.*, (2024) 7 SCC 315, held as follows:

‘45. With regard to (iii) (supra), we can do no better than refer to the traditional view in *Chhajju Ram*³, a decision of a Bench of seven Law Lords of the Judicial Committee of the Privy Council. It was held there that the words “any other sufficient reason” means “a reason sufficient on grounds at least analogous to those specified immediately previously”, meaning thereby (i) and (ii) (supra)⁴. Notably, *Chhajju Ram* has been consistently followed by this Court in number of decision starting with *Moran Mar Basselios Catholicos Vrs. Mar Poulouse Athanasius* [(1955) 1 SCR 520 = AIR 1954 SC 526]. ...

³ *Chhajju Ram Vrs. Neki*, 49 I.A. 144.

⁴ Paragraph 62 of *State of West Bengal Vrs. Jai Hind Pvt. Ltd.*, (2026) 2 SCR 497 reads as follows:

“62. One can find the basic legal postulates of the scope of review in Section 114 read with Rule 1 of Order XLVII of the CPC, which are applied in all proceedings in which the power of review is exercised. Thus, only on the following grounds, a review would lie:

i. Discovery of new and important matter or evidence; or
ii. Mistake or error apparent on the face of the record; or
Any other sufficient reason.”



106. Moving on further, we find that the attempt of the review petitioners has been to draw inspiration from the ground “any other sufficient reason” appearing in Rule 1. There have been decisions of this Court which have construed the words “any other sufficient reason” expansively, like Netaji Cricket Club and Jagmohan Singh, whereas there are decisions, including Moran Mar Basselios Catholicos, Shatrunji, Kamlesh Verma and S. Madhusudhan Reddy, that have followed Chhajju Ram explaining that the ground “any other sufficient reason” means “a reason sufficient on grounds at least analogous to those specified immediately previously.

107. However, with utmost respect, we do not find any of those decisions, which have taken an expansive view, looking at such ground in the manner we propose to look, for recording our concurrence with the view in Chhajju Ram that has unhesitatingly been followed over the years. **If indeed “any other sufficient reason” were to take within its embrace any situation not analogous to “discovery of new matter or evidence” and “on account of some mistake or error apparent on the face of the record”, we wonder why the legislature chose to keep “any other sufficient reason” immediately after the aforesaid two grounds.** If “any other sufficient reason” were to be read independent of the said two grounds, we believe the long line in Rule 1 after clauses (a) to (c) need not have been drafted in the manner it presently



reads. In lieu of referring to the said two grounds as grounds on which a review could be sought, the legislature could well have kept it open-ended as in Section 5 of the Limitation Act, 1963 where it is provided, without any strings attached, that any appeal or any application may be admitted after the prescribed period of limitation if the appellant or applicant satisfies the court that he had “sufficient cause” for not preferring the appeal or the application earlier. If the intention of the legislature were to give an expanded meaning, Order 47 Rule 1 would have read somewhat like this: any person considering himself aggrieved by a decree or order or decision of the nature indicated in clauses (a), (b) and (c) for any sufficient reason desires to obtain a review of the decree or order made against him, may apply for a review. But that is not what the provision says and means. Reading Order 47 Rule 1 in juxtaposition to Section 5 of the Limitation Act drives us to accept the view in Chhajju Ram as having interpreted the law correctly and acceptance of the same by this Court and High Courts over the years, coupled with the fact that Parliament did not consider it necessary to amend Rule 1 when it inserted the Explanation in 1976. Giving a wider meaning to the ground “any other sufficient reason” in Netaji Cricket Club and Jagmohan Singh, therefore, must have been intended and necessitated by this Court because the justice of the cases so demanded but the same would have no application in a case of this nature.”



80. Further, the Courts have time and again decided what can fall under the term “any other sufficient reason”. For instance, *inter alia*, where the Court omits to notice or consider relevant statutory provisions was held to be a sufficient reason in *Girdhari Lal Gupta Vrs. D.H. Mehta*, (1971) 3 SCC 189. Additionally, an order arising out of a lack of jurisdiction was held to be a sufficient reason in *Budhia Swain Vrs. Gopinath Deb*, (1999) 4 SCC 396. However, in the case at hand, there exists no such “sufficient reason” within the meaning of Rule 1 of Order XLVII of the CPC.”

9. The scope of review being very limited and founded on three aspects⁵ as postulated under Order XLVII, Rule 1 of the Code of Civil Procedure read with propositions as expounded by the Hon’ble Supreme Court of India in very many decisions, the present case is not comprehended within the parameters so set forth.

9.1. It may not be out of place to quote the following from *S. Tirupathi Rao Vrs. M. Lingamaiah*, (2024) 7 SCR 1077:

“First, it is trite that the court cannot traverse beyond the pleadings and make out a case which was never pleaded, such principle having originated from the fundamental legal maxim secundum allegata et probate, i.e., the court

⁵ They are as follows:

1. discovery of new and important matter or evidence which, after the exercise of due diligence was not within the applicant’s knowledge or could not be produced by the applicant at the time when the decree was passed, or order made; or
2. mistake or error apparent on the face of the record; or
3. for any other sufficient reason, which must be analogous to either of the aforesaid grounds.



*will arrive at its decision on the basis of the claims and proof led by the parties. *** Law is, again, well-settled that when a point is not traceable in the pleas set out either in a plaint or a written statement, findings rendered on such point by the court would be unsustainable as that would amount to an altogether new case being made out for the party.”*

- 9.2. It is not the case of the petitioners that this Court has not taken into consideration the pleadings and documents enclosed with the writ petition. This Court on meticulous analysis of material made available for consideration came to conclusion that factual dispute does exist inasmuch as the prayer of the petitioner in the writ petition was to direct the authority concerned to demarcate the land allotted way back in the year 1995 by the Tahasildar, Puri in Army/Jawan Lease Case No.07 of 1988 *vide* order dated 5th July, 1995 and handover possession. The argument advanced by Sri Surya Prasad Misra, learned Senior Advocate, to press the review petition is based solely on the ground that the Resolution bearing No.20827-POLL, dated 7th July, 1969 issued by the Government of Odisha in Home Department and the Clarification thereto issued by the Government of Odisha in Revenue and Excise Department *vide* No. (GL)-S-123/86 48798, the 2nd August, 1986 were not within the knowledge of the petitioners. It is fallacious. A public document like Resolution of the Government cannot be said to have



come to the knowledge of the petitioners after judgment in the writ petition is pronounced. Such submission in the opinion of this Court cannot be comprehended within the meaning of “an error apparent on the face of the record”. Nevertheless, it could not be argued that having due diligence such public document could be possessed by Prasanna Kumar Das during his life-time or after his death the petitioners, natural heirs. This apart, mere issuance of allotment of land does not amount to granting possession of site to the allottee, much less ownership. Allotment of plot is one thing and delivery of its possession pursuant to such allotment is another. Possession precedes allotment. Unless it is further shown that the possession of the subject plot/land was given, one cannot equate the allotment of land to delivery of possession.

9.3. The proposition of law as reaffirmed by the Hon’ble Supreme Court of India in the case of runs thus:

“16. Since the Division Bench (review) invoked the first clause, we hasten to emphasize that an applicant seeking review on the basis of discovery of new evidence has to demonstrate: first, that there has been discovery of new evidence, of which he had no prior knowledge or that it could not be produced at the time the decree was passed or the order made despite due diligence; and secondly, that the new evidence is material to the order/decreed being reviewed in the sense that if the evidence were



produced in court when the decree was passed or the order made, the decision of the court would have been otherwise. Ultimately, it is for the court to decide whether a review sought for by an applicant, if granted, would prevent abuse of the process of law and/or miscarriage of justice.

17. *When the ground for review sought is that of discovery of new evidence, this Court in State of West Bengal Vrs. Kamal Sengupta, (2008) 10 SCR 4 = (2008) 8 SCC 612 has clarified that the same must be evidence which should be materially important to the decision taken. The following passage is instructive:*

‘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.’

- 9.4. Under the above premise, it is difficult to comprehend that the grounds on which the review of judgment dated 7th March, 2024 passed in W.P.(C) No.23521 of 2013 is



sought for can be said to fall within the parameters discussed above.

- 10.** Having thus the perspicuity of ratio emanating from the judgments referred to *supra*, this Court does not find good ground to perceive that the judgment dated 07.03.2024 rendered in W.P.(C) No.23521 of 2013 suffers from error apparent on the face of the record.
- 11.** In the wake of the above, the review petition stands dismissed along with the pending interlocutory application(s), if any. However, in the circumstances, there shall be no order as to costs.

I agree.

(HARISH TANDON)
CHIEF JUSTICE

(MURAHARI SRI RAMAN)
JUDGE