

(2010) 01 MAD CK 0061

In the Madras High Court

Case No : Rev. Application Nos.137 to 139 of 2008 in C.R.P. NPD No's. 1095 to 1097 of 2004

M. Jagadeesan

APPELLANT

Vs

K. Selvam, M. Srinivasan and S. Sivanesan

RESPONDENT

Date of Decision : 07-01-2010

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 47 Rule 1, Order 47 Rule 1(1), 114, 115
Supreme Court Rules, 1966 — Order 40 Rule 1
Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 — Section 10(3), 10(4), 25

Citation : (2010) 2 MLJ 1177

Hon'ble Judges : M. Venugopal, J

Bench : Single Bench

Advocate : T.R. Rajagopalan for G. Kathirvelu, for the Appellant; R.T. Shyamala, for the Respondent

Final Decision : Dismissed

Judgement

M. Venugopal, J.—The applicant/petitioner in the Civil Revision Petitions has filed these Review Applications before this Court praying for

the review of the order dated 12.02.2008 made in C.R.P. NPD Nos. 1095 to 1097 of 2004 and resultantly to revise the orders so passed therein.

2. The learned Counsel for the review applicant/petitioner urges before this Court that the review applications have been filed before this Court on

admitted facts and only Section 10(3)(a)(iii) of the T.N. Act 18 of 1960 is applicable to the facts of the present case and Section 10(3)(c) of the

Act is not applicable and that apart Section 10(4) of the T.N. Act 18 of 1960 has no application to the employees mentioned in the G.O.MS. No.

3440,(Home) dated 27th October 1960 (Published in Fort St. George, Gazette dated 9th November 1960 Part II Section 2 at page 692) and the

notification All Departments of the State and Central Government in the State shall be deemed to be engaged in essential services for the purpose

of Sub-section (4) of Section 10 of the Act"" applies to Departments who are tenants and not to its Employees and as a matter of fact the revision

petitioner/landlord is in occupation of the first floor for the purpose of residence and the ground floor is sought for a non residential purpose and

therefore only Section 10(3)(a)(iii) is applicable and not Section 10(3)(c) of the Act and therefore there is an "Error Apparent on the Face of

Record" and if a landlord resides in one portion then Section 10(3)(a)(iii) is only applicable and not Section 10(3)(c) of the Act.

3. Expatiating his submissions, the learned Counsel for the review applicant/ revision petitioner submits that "A Mistake Apparent from the record"

also includes an obvious error of law and to lend support to his contention, he relies on the decision of the Hon''ble Supreme Court M.K.

Venkatachalam, I.T.O. and Another Vs. Bombay Dyeing and Mfg. Co., Ltd., at page 880 and 881, wherein at Paragraph No. 6 it is held as

follows:

6. It is in the light of this position that the extent of the Income Tax Officer's power u/s 35 to rectify mistakes apparent from the record must be

determined; and in doing so, the scope and effect of the expression.

@ page-SC 880

mistake apparent from the record"" has to be ascertained. At the time when the Income Tax Officer applied his mind to the question of rectifying

the alleged mistake, there can be no doubt that he had to read the principal Act as containing the inserted proviso as from 1-4-1952. If that be the

true position then the order which he made giving credit to the respondent for Rs. 50,603-15-0 is plainly and obviously inconsistent with a specific

and clear provision of the statute and that must inevitably be treated as a mistake of law apparent from the record. If a mistake of fact apparent

from the record of the assessment order can be rectified u/s 35, we see no reason why a mistake of law which is glaring and obvious cannot be

similarly rectified. Prima facie it may appear some-what strange that an order which was good and valid when it was made should be treated as

patently invalid and wrong by virtue of the retrospective operation of the Amendment Act. But such a result is necessarily involved in the legal

fiction about the retrospective operation of the Amendment Act. If, as a result of the said fiction we must read the subsequently inserted proviso as

forming part of Section 18A(5) of the principal Act as from 1-4-1952, the conclusion is inescapable that the order in question is inconsistent with

the provisions of the said proviso and must be deemed to suffer from a mistake apparent from the record. That is why we think that the Income

Tax Officer was justified in the present case in exercising his power u/s 35 and rectifying the said mistakes, Incidentally we may mention that in

Meka Venkatappaiah Vs. Additional Income Tax Officer, the High Court of Andhra has taken the same view.

4. He also cites the decision of the Hon"ble Supreme Court, Ms. Thungabhadra Industries Ltd. (In all the Appeals) v. The Government of Andhra

Pradesh Rep. by the Thungabhadra Industries Ltd. Vs. The Government of Andhra Pradesh, , wherein at paragraphs 8 and 9 it is held as follows:

8. Order XLVII Rule 1(1) of the CPC permits an application for review being filed ""from a decree or order from which an appeal is allowed but

from which no appeal has been preferred."" In the present case, it would be seen, on the date when the application for review was filed the

appellant had not filed an appeal to this Court and therefore the terms of Order XLVII Rule 1(1) did not stand in the way of the petition for review

being entertained. Learned Counsel for the respondent did not contest this position. Nor could we read the judgment of the High Court as rejecting

the petition for review on that ground. The crucial date for determining whether or not the terms of Order XLVII Rule 1(1) are satisfied is the date

when the application for review is filed. If on that date no appeal has been filed it is competent for the Court hearing the petition for review to

dispose of the application on the merits notwithstanding the pendency of the appeal, subject only to this, that if before the application for review is

finally decided the appeal itself has been disposed of, the jurisdiction of the Court hearing the review petition would come to an end.

9. The next question is as regards the effect of the refusal of this Court to condone the delay in filing the petition for special leave. Here again, it

was not contended that the refusal of this Court to entertain the petition for special leave on the grounds just now stated was a bar to the

jurisdiction or powers of the Court hearing the review petition. This position was not contested by the learned Advocate for the respondent either.

In these circumstances, we are unable to agree with the learned Judges of the High Court that the refusal by this Court to condone the delay in filing the petition for special leave was a circumstances which could either bar the jurisdiction of the High Court to decide the petition for review or even could be a relevant matter to be taken into account in deciding it. If therefore their original order dated September 4, 1959 was vitiated by an error apparent on the face of the record, the failure of the SLP to be entertained in this Court in the circumstances in which it occurred, could not be any ground either of itself or taken along with others to reject the application for review.

5. Continuing further, the learned Counsel for the review applicant brings it to the notice of this Court to the decision of the Hon'ble Supreme Court, *Ajit Kumar Rath v. State of Orissa and Ors.* AIR 2000 Sc 85, wherein it is held as follows:

The provisions of Section 22(3)(f) indicate that the power of review available to the Tribunal is the same as has been given to a Court u/s 114 read with Order 47, C.P.C. The power is not absolute and is hedged in by the restrictions indicated in Order 47. The power can be exercised on the application of a person on 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 order was made. The power can also be exercised on account of some mistake or error apparent on the face of the record or for any other sufficient reason. A review cannot be claimed or asked for merely for a fresh hearing or arguments or correction of an erroneous view taken earlier, that is to say, the power of review can be exercised only for correction of a patent error of law or fact which states in the face without any elaborate argument being needed for establishing it. It may be pointed out that the expression ""any other sufficient reason"" used in Order 47, Rule 1 means a reason sufficiently analogous to those specified in the rule. Any other attempt, except an attempt to correct an apparent error or an attempt not based on any ground set out in Order 47, would amount to an abuse of the liberty given to the Tribunal under the Act to review its judgment. (Paras 30, 31).

6. In support of the contention that the review applications are maintainable before this Court, the learned Counsel for the review applicant/revision

petitioner seeks in aid of the decision T.N. Krishnamoorthy Vs. Jagat Textiles, . at pgs. 394 and 395 wherein it is held as follows:

When the High Court has been conferred with powers to entertain a revision u/s 25 of the Tamil Nadu Act XVIII of 1960 as held in Thirupathi

Nadar v. Kandaswami Nadar (1968) 81 L.W. 642, when a Court is invested with powers to adopt the procedure applicable to it, there is

necessity for invoking the Code of Civil Procedure. No procedure having been contemplated in the Rules to be adopted by the High Court and

when the High Court is a Court of-record the necessary implication is the Court will have to decide the revision petitions by following the Civil

Procedure Code. (Para 27)

The power of revision conferred u/s 25 of the Act XVIII of 1960 is on the High Court and while entertaining the revision it exercises the power of

a Court created under the Constitution. It is not a "persona designata". When power is conferred on a Court, and no other special procedure is

prescribed for disposal of matters under a particular statute, as held in Patel Narshi Thakershi and Others Vs. Shri Pradyumansinghji Arjunsinghji, ,

by such conferment of power, there is necessary implication that the Code of Civil Procedure, would apply and in turn the power of review would

be available to the High Court. (Para.32)

7. That apart on the side of the review applicant/revision petitioner, the decision of this Court, The Collector of Madras (Accommodation

Controller) v. C. Logeswara Rao 1985 T.N.L.J. 282, 283 is cited before this Court to show that this Court has an inherent power of review to

undo the wrong in the course of the administration of justice and the same runs as follows:

The only contention advanced by the learned Government Advocate appearing for the revision petitioner the Collector of Madras and

Accommodation Controller is that the Rent Controller and the Appellate Authority under the Act are only persona designata, that they are not

Courts, that the provisions of the CPC have no application and they have therefore no right to review their orders. It is needless for the purpose of

this case to go into the question. Whether the Rent Controller and the Appellate Authority are Courts and whether the CPC as such applies to the

proceedings before them. Suffice it to point out that the Rent Controller and the

Appellate Authority empowered to determine question affecting the rights of citizens are certainly judicial bodies and the proceedings before them are undoubtedly of a judicial nature. It is a well settled principle that such judicial and quasi-judicial Tribunals adjudicating upon rights of parties must possess inherent powers, apart from the express. Provisions of the law, which are necessary for their existence and for the proper discharge of the duties imposed upon them by laws. Every judicial or quasi-judicial body, in the absence of express provision, must be deemed to possess, as inherent in its very Constitution, all such powers as are necessary to do the right and to undo the wrong in the course of the administration of justice. This is based on the principle embodied in the Maxim. Quando lex aliquid alicui concedit concedere videtur id quo res ipsa esse non protest (when the law gives anything to anyone, it gives also all those things without which the thing itself would be unavailable). Where an error apparent on the face of the record is committed by a judicial or quasi-judicial authority in the discharge of its functions it must necessarily have the power to rectify, that error and to deny that judicial authority this right to undo the wrong will be self-defeating. Such a rigidity of law, far from advancing the cause of justice will result in perpetration of injustice. It cannot be said that merely because there are no express provisions in the rules framed, Under the Act empowering the Authorities constituted under the Act to review its order in appropriate cases. Such Authorities have no such power to do justice or redress a wrong. The following observation of Mahmood, J., in Narasingha Dass v. Mungal Dube v, Allahabad 163 Full Bench is worthy of note.

All Courts are not to act upon the Principle that every procedure has to be taken as prohibited unless it is expressly provided for by the Code. But on the converse Principle that every procedure is to be understood as permissible till it is shown to be prohibited by the law. As a matter of general principle, prohibitions cannot be presumed.

Though these observations have been made with reference to courts they apply in equal force to all judicial and quasi-judicial Tribunals which are constituted to adjudicate upon valuable rights of citizens. I therefore hold that the Rent Controller and the Appellate Authorities under the Tamilnadu Buildings (Lease and Rent Control) Act have inherent power to review

their own orders with a view to correcting patent or obvious mistakes in order to advance the ends of justice and redress a wrong.

8. Contending contra, the learned Counsel for the respondents submits that both the learned Rent Controller as well as the Appellate Authority

have recorded a concurrent finding of the fact in the proceedings before them and it cannot be interfered with in revision and now the review

applicant/revision petitioner is canvassing the same in review before this Court and in the ground floor, there are 7 shops and room Nos. 1, 2 and 7

are vacant and they are in possession of the review applicant/landlord and already when three shops are vacant and in occupation of the review

applicant/landlord then Section 10(3)(c) is only applicable and the review applicant/petitioner/landlord is asking the other three shops and after

hearing of the revision petitions if the review applicant/revision petitioner come across any decisions/citations and if the review applicant/petitioner

is inclined to cite the same before this Court in review applications it cannot be permitted to be done in law and as per Section 25 of T.N.

Buildings (Lease and Rent Control) Act 1960, there is no provision for filing of a review application and unless there is a specific power under a

particular statute to review the order passed, the same cannot be done by a party when other shops are vacant, the review applicant/petitioner

cannot claim the shops which are in occupation of the tenants and therefore prays for dismissal of the review applications.

9. The learned Counsel for the respondents (in all the revision petitions) cites the decision of the Hon"ble Supreme Court, State Bank of India and

Others Vs. S.N. Goyal, at pgs.97, 98 whereby and whereunder it is held that ""once an Authority becomes functus officio after finalising its order, it

cannot change its decision unless there is a specific power of review and this applies to quasi-judicial authorities also.

10. She also relies on the decision of this Court, S.J.S. Fernandes v. V. Ranganayakulu Chetty 1950 (2) MLJ 445, wherein it is held as follows:

The Madras Buildings (Lease and Rent Control) Act 1949, contains no provision for review. The right to review cannot be invoked under the

inherent power of the Court. Such right must be conferred by statute. The CPC was not intended to be generally applicable to proceedings under

the Madras Buildings (Lease and Rent Control) Act. Accordingly the provisions of

Order 47, Rule I are not applicable where a revision petition under the Buildings and Lease Control Act has been dismissed.

11. In regard to the plea that a concurrent finding of the learned Rent Controller and the Appellate Authority cannot be interfered with in revisional

jurisdiction, the learned Counsel for the respondents brings it to the notice of this Court to the decision of the Hon"ble Supreme Court, Sri. Raja

Lakshmi Dyeing Works and Others Vs. Rangaswamy Chettiar, at pg. 260 wherein it is held hereunder:

Under Section 25 of the T.N. Buildings (Lease and Rent Control) Act 1960, the High Court calls for and examines the record of the appellate

authority in order ""to satisfy itself"". The expression ""to satisfy itself"" conveys the idea that the power conferred on the High Court u/s 25 is

essentially a power of superintendence. Therefore, despite the wide language employed in Section 25 of the High Courts should not interfere with

findings of fact merely because it does not agree with the finding of the subordinate authority. The power conferred on the High Court u/s 25 may

not be as narrow as the revisional power of the High Court u/s 115 CPC but it is not wide enough to make the High Court a second court of first

appeal.

12. On the side of the respondents, the decision of the Hon"ble Supreme Court, Rafat Ali Vs. Sugni Bai and Others, at pgs. 134 and 135 is cited

before this Court wherein it is held as follows:

(1) It was not open to the High Court to substitute the findings of the lower courts with its own findings while exercising the limited supervisory

jurisdiction. When fact-finding courts had found the damage trivial.

(2) The appellation ""Revision"" given to Section 22 makes it unmistakably clear that the power conferred thereunder is revisional which means, it is

a power of supervision. It is well-nigh settled that a revision jurisdiction cannot be equated with appeal powers in all its parameters. The power to

call for and examine the records is for the purpose of the High Court to satisfy itself as to the ""legality, regularity or propriety"" of the order of the

lower authority. Even such a widely worded frame of Section 22 may at best indicate that the revisional powers are not so restricted as in other

enactments wherein the words are not so widely framed. Nonetheless, they remain in the realm of supervisory jurisdiction.

13. Continuing further, the learned Counsel for the respondents cites the decision of the Hon"ble Supreme Court, Kailash Chander v. Om Prakash

and Anr. (2003) 12 Scc 728, at pages 730, 731 wherein at paragraph 5 it is observed thus:

5. This Court proceeded to say further that unless the High Court comes to the conclusion that the concurrent findings recorded by the two courts

below are wholly perverse and erroneous, which manifestly appear to be unjust, there should be no interference. In the case on hand also the two

courts below have appreciated evidence placed on record and on a proper appreciation concluded that the case of sub-letting, as pleaded by the

appellant, is proved. In our view, the High Court was not justified in interfering with such concurrent finding. It is not shown on behalf of the

respondents herein that the findings recorded by the two courts below were either perverse or not based on evidence. We must also keep in mind

that when the appellant established the fact that respondent 2 was carrying on his activities as UTI agent in the part of the premises exclusively by

him, it was for the respondent to establish that his possession on that premises was not as a sub-tenant. Merely because respondent 1 is the father

of Respondent 2 there cannot be any justification to say that it was not a case of sub-letting.

14. Further more, the learned Counsel for the respondents relies on the decision of the Hon"ble Supreme Court, Shanti Devi Vs. State of Haryana

and Others, , wherein it is held as follows:

That a judgment sought to be reviewed was overruled in another case subsequently is no ground for reviewing the said judgment - The provisions

of the Explanation to Order 47 Rule 1 are applicable by analogy and clearly rule out this type of review proceedings - Held, review petition liable

to be dismissed.

15. To support the contention that a Court or Tribunal has no inherent power of review unless the same is vested by statute, the learned Counsel

for the respondents cites the Full Bench decision B.F. Pushpaleela Devi v. State of A.P. Rep. by its Secretary 2002 (3) CTC 513 (FB), wherein it

is held that A Court or Tribunal has no inherent power of review and the powers of review can be exercised only if such power is vested by a

statute and further that the error must be one striking on mere look at record

and should not require any long drawn process of reasoning on point which conceivably may have two opinions.

16. The review applicant/revision petitioner in the Grounds of Review has taken a plea that his case is u/s 10(3)(a)(iii) of the Tamil Nadu Buildings

(Lease & Rent) Control Act 18 of 1960 and not u/s 10(3)(c) of the Act and this Court proceeded on the basis as if the revision petitioner has

rested his case u/s 10(3)(c) of the Act and not u/s 10(3)(a)(iii) of the Act and in fact Section 10(3)(c) of the Tamil Nadu Act 18 of 1960 has been

added in the R.C.O.P. petition only by means of an abundant caution and moreover the possession is different from occupation and added Panel

of Electricity Metres have been located in room Nos. 2, 3 and 7 which are used as a lumber room, which is part of residential character, etc., and

indeed this Court has committed an error in accepting the contention of the tenants that the landlord can carry on business in room Nos. 1, 2 and 7

and also that this Court ought to have held that no preparation at all is needed for starting an electrical business in the petition premises, when the

financial position has not been disputed by the tenants.

17. It is the further stand of the review applicant/revision petitioner that unless the petitioner obtain possession of the building, he cannot apply for

any license or place order for goods and the very assurance to resign the job by the son of the petitioner is a first step in preparation and the

Government Servants are protected from eviction from the residential building and not from the non residential building and the petitioner's son is

also a Government Servant, which ought to have been looked into by this Court and moreover no protection is available to another Government

Servant in regard to eviction and the whole basis of the order passed in the three Civil Revision Petitions is de hors of the facts and the well settled

legal position and therefore has prayed for allowing the review applications in the interest of justice.

18. At this stage, this Court aptly recalls the decision of the Hon''ble Supreme Court, *Ajit Kumar Rath Vs. State of Orissa and Others*, at page

608, wherein Paragraphs 30 and 31, it is observed as follows:

30. The provisions extracted above indicate that the power of review available to the Tribunal is the same as has been given to a Court u/s 114

read with Order 47 CPC. The power is not absolute and is hedged in by the

restrictions indicated in Order 47. The power can be exercised on the application of a person on 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 order was made. The power can also be exercised on account of some mistake or error apparent on the face of the record or for any other sufficient reason. A review cannot be claimed or asked for merely for a fresh hearing or arguments or correction of an erroneous view taken earlier, that is to say, the power of review can be exercised only for correction of a patent error of law or fact which stares in the face without any elaborate argument being needed for establishing it. It may be pointed out that the expression ""any other sufficient reason"" used in Order 47 Rule 1 means a reason sufficiently analogous to those specified in the rule.

31. Any other attempt, except an attempt to correct an apparent error or an attempt not based on any ground set out in Order 47, would amount to an abuse of the liberty given to the Tribunal under the Act to review its judgment.

19. In the decision *M.M. Thomas Vs. State of Kerala and Another*, , the Hon''ble Supreme Court has held that ""As a Court of record power and duty to review own judgment, held, are both inherent in every High Court and as a Court of record the High Court is unquestionably a superior court of plenary jurisdiction and is competent to determine scope of its jurisdiction and thus it has not only power but also duty to correct any error apparent on face of record.

20. In *S. Nagaraj and Others Vs. State of Karnataka and Another*, , at pages 598, 599, it is held thus:

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. (Para 18)

Rectification of an order stems from fundamental principle that justice is above all. It is exercised to remove the error and not for disturbing finality.

Apart from Order XL Rule 1 of the Supreme Court Rules, the Supreme Court has the inherent power to make such orders as may be necessary in

the interest of justice or to prevent the abuse of process of court. The Court is thus not precluded from recalling or reviewing its own order if it is

satisfied that it is necessary to do so for sake of justice.

21. In *Lakshman Bhowmik v. Satya Narayan Chakraborty* 1996 AIHC 5677, at page 5678 at paragraph 4, it is among other things observed as

follows:

4. I have bestowed serious consideration on the submissions made by the respective Counsel in the context of the facts, as noted by me

hereinabove. It is well settled that an error can be said to be one apparent on the face of the records only when such error is patent and can be

located without any elaborate argument without any scope for any controversy with regard to such error, which as if, at a glance stares at the face

Thungabhadra Industries Ltd. Vs. The Government of Andhra Pradesh, . In that decision the Court accepted a distinction between an erroneous

decision and an error apparent and laid down that a process of review could not, by any means, be an appeal in disguise so as to allow correction

of such an error upon a re-hearing. The scope of the said ratio laid down by the Apex Court was further clarified and extended by a two Judges"

Bench of that Court in the cases of *Smt. Meera Bhanja Vs. Smt. Nirmala Kumari Choudhury*, ; *Md. Ashraf Ali v. Debraj Wadhera*, as, 1995

Supp (2) SCC 654 where it was held that the terms of Order 47, Rule 1 of the CPC were strict and arena of facts which were outside the scope

of a second appeal could not be transgressed by Courts by way of review arising from such second appeal. Even construction of a document in

second appeal and a finding that the said was a Deed of Settlement could not be altered on review and could not be found to be a will and not a

Deed of Settlement vide *Devaraju Pillai Vs. Sellayya Pillai*, .

22. In *Parsion Devi and Others Vs. Sumitri Devi and Others*, , at page 716 the Hon"ble Supreme Court has held thus:

Under Order 57, 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"". There is a clear distinction between an erroneous decision and

an error apparent on the face of the record. While the first can be corrected by the higher forum, the latter only can be corrected by exercise of the

review jurisdiction. A review petition has a limited purpose and cannot be allowed to be ""an appeal in disguise"".

23. It is relevant for this Court to make a mention that in *Gantasala Eswara Rao v. Gundimi Somasekhar and Anr.* 1998 AIHC 2351, it is held as

follows:

When the lis is disposed of by the Court it becomes functus officio in respect of the same issue. The Court cannot arrogate power to itself and re-

hear the matter which has decided rights of the parties after becoming final. Power of review under the CPC is granted on very limited grounds. In

the absence of express or implied conferment of the jurisdiction, Court cannot infer power. Therefore the power of review conferred under Order

47, on the Civil Court or even the High Court while exercising jurisdiction under other laws cannot be imported into the provisions of the special

Act, in the absence of any express provision or gathered by necessary implication. The A.P. Buildings (Lease, Rent and Eviction) Control Act

being a special and self-contained Act, review of an order passed in revision by High Court under the provisions of Act, is not maintainable.

Further from the grounds raised for review in this application it is seen that the review is not sought on the ground of any procedural non-

compliance, or failure, but sought by way of substantial relief.

24. In *M.M. Yaragatti Vs. Vasant Siddoji Jadhav and Others*, , it is held that ""High Court passing order under Rent Act believing that certain plea

raised by a party was heard and decided by lower Court and in fact party had

raised the plea but was precluded by lower Court from raising it and High Court's decision being based on wrong impression was held erroneous on face of record and it was open to High Court to review its

decision to avoid miscarriage of justice. *Thungabhadra Industries Ltd. Vs. The Government of Andhra Pradesh*,

25. In the decision *Rajeswari and Parameswari Vs. Sri Bhuvaneswari Cycle Mart*, , it is held that "Review is by no means an appeal in disguise

and there is a difference between an erroneous decision and error apparent on the face of the record and the former has to be corrected by the

higher forum and the latter can be corrected by exercising the review jurisdiction and only when there is an error apparent on the face of the

record, the review jurisdiction will be exercised and there cannot be reappraisal of evidence, by invoking the power of review and it would amount

to exercise of appellate jurisdiction and an erroneous decision cannot be the basis for seeking review.

26. It is to be pointed out that the power of review can be exercised by a Court of Law for correction of mistakes and not to substitute the view

already taken.

27. Be that as it may, on a careful consideration of respective contentions, though this Court is A Court of Record with plenary powers, yet this

Court is of the considered view that the power of Review is restricted under CPC and by means of review substantial reliefs cannot be asked for

and in the garb/guise of review, this Court cannot rehear the parties on the point of law afresh and also there can be no reappraisal and re-

appreciation of evidence based on the overall assessment and facts of the matters in issue and moreover the reappraisal of entire evidence on

record for finding out the errors will amount to exercise of Appellate Jurisdiction, which is not permissible in law and viewed in that perspective, the

review applications are not maintainable and they fail.

28. In the result, the Review Applications are dismissed without costs.