(2025) 10 DL CK 0008

Delhi HC

Case No: FAO(OS) No. 29 Of 2025 & Civil Miscellaneous Application No. 12655 Of 2025

Sh Inderjeet Singh Bindra	APPELLANT
Vs	
Smt Ramesh Kumari & Ors.	RESPONDENT

Date of Decision: Oct. 28, 2025

Acts Referred:

- Constitution of India, 1950 — Article 226
- Code of Civil Procedure, 1908 — Section 114, Order 2 Rule 2, Order 6 Rule 17, Order 7 Rule 11, Order 47 Rule 1
- Specific Relief Act, 1963 — Section 21(5), 22(2), 31, 34
- Limitation Act, 1963 — Section 3
- Limitation Act, 1963 — Article 59, 65

Hon'ble Judges: Anil Kshetarpal, J; Harish Vaidyanathan Shankar, J

Bench: Division Bench

Advocate: Shyamal Kumar, Apoorva Pal, Rajesh Yadav, V.P. Rana, Rajat Agnihotri, Kunal Mittal

Final Decision: Dismissed

Judgement

Anil Kshetarpal, J

1. Through the present Appeal, the Appellant assails the correctness of the Judgment/Order dated 10.01.2025 [hereinafter referred to as ‘Impugned Order’] passed in Review Petition No. 10/2025, whereby the learned Single Judge dismissed the Review Petition filed by the Appellant seeking review of the Order dated 18.11.2024. In the aforesaid Order, the learned Single Judge dismissed the application seeking amendment of the plaint on the ground that the application is barred by the period of limitation as the same has been sought after seven years of the institution of the suit and eight years on coming to know that the General Power of Attorney (‘GPA’) has been misused.

2. In the facts of the present case, the question which requires adjudication by this Court is whether an amendment application to insert a prayer for declaration/cancellation of GPA, which is barred

by the limitation period, can be allowed or not?

FACTUAL MATRIX:

3. In order to comprehend the issues involved in the present case, relevant facts in brief are required to be noticed.

4. The facts leading to the dispute are that one Mr. Jaswant Singh Bhullar [hereinafter referred to as 'Mr. Bhullar'], who met the Appellant in the United States of America ('USA'), suggested to the Appellant that Delhi was not safe for the people of his community, and the Appellant should consider divesting his landholdings, admeasuring 33 Bighas 09 Biswas, comprised in Khasra Nos. 33/7/2, 33/8/2, 33/13, 33/14/1, 33/17, 33/118/2, 36/2, and 36/3, situated in Village Samalkha, Tehsil Mehrauli, New Delhi [hereinafter referred to as 'suit land']. Pursuant thereto, the Appellant caused a GPA dated 24.07.1987 to be prepared and delivered it to Mr. Bhullar. However, it is the case of the Appellant that the said instrument was never acted upon and was subsequently taken back by the Appellant.

5. Further, it is stated that after a few years, Mr. Bhullar introduced the Appellant to one Mr. Deepak Bhardwaj [hereinafter referred to as 'Mr. Bhardwaj'], wherein Mr. Bhardwaj promised the Appellant that he would look after his land, as he has land in the same vicinity, and that he is living in the same area. Relying on the statement of Mr. Bhardwaj, the Appellant had accepted the offer of Mr. Bhardwaj to look after the land. However, no document had been executed by the Appellant in favour of Mr. Bhardwaj, and the Appellant only permitted him to assume permissive possession of the suit land in the capacity of caretaker, with no right, title, or interest therein.

6. Notwithstanding the demise of Mr. Bhullar in 1993, the aforementioned arrangement subsisted, and the Appellant had no reason to doubt the bona fides or intentions of Mr. Bhardwaj with respect to the suit land. However, subsequently, the Appellant discovered that Mr. Bhardwaj, who was murdered in 2013, had been misusing the suit land. The Appellant further learnt that Mr. Bhullar had retained a copy of the GPA, and on that basis, executed 13 Sale Deeds in favour of various persons in relation to the suit land, even after the Appellant had taken back the GPA. Consequently, multiple legal proceedings pertaining to the suit land came to be initiated and were pending adjudication before the Court.

7. On 21.07.2016, the Appellant filed the impugned suit, i.e., CS(OS) 63/2017, seeking a decree of declaration and cancellation of the 13 Sale Deeds, and also for a declaration that the Respondents are in illegal possession of the suit land. Herein, it is material to note that as presently framed, the plaint neither contains any prayer for cancellation of the GPA, nor does it seek a declaration that said GPA was forged or fabricated.

8. Subsequently, on 19.01.2024, the Defendant No. 1 (B), son of Mr. Bhardwaj, filed an application under Order VII Rule 11 of the Code of Civil Procedure [hereinafter referred to as 'CPC'], seeking rejection of the plaint mainly on the ground that the suit is barred by the period of limitation and further, on 11.09.2024, for inserting a prayer for declaration, declaring the GPA to be null and void and as never having been executed by the Appellant, and that the same is forged and fabricated and non est, the Appellant filed the Application bearing I.A. No. 39429/2024

seeking amendment of the plaint [hereinafter referred to as ‘Amendment Application’].

9. However, the same was dismissed by the learned Single Judge vide the Judgment dated 18.11.2024, on the following grounds:

i. If the Amendment Application is accepted today, the suit, had it been filed today, would be barred by the limitation period under Article 59 of the Limitation Act, 1963 [hereinafter referred to as ‘Article 59’] and would revive a dead claim;

ii. The remedy stands barred by the limitation period and the same cannot be permitted to be revived, by way of an amendment in the plaint, as it causes substantial prejudice to the Respondents.

10. Pursuant thereto, the Appellant filed the Review Petition No. 10/2025 seeking review of the judgment dated 18.11.2024, however, the same was also dismissed by the learned Single Judge vide its judgment dated 10.01.2025 for the following reasons:

i. Though the present suit is one for possession, the prayer that was sought to be introduced was for the cancellation of the GPA. Thus, Article 65 of the Limitation Act, 1963 [hereinafter referred to as ‘Article 65’] is not applicable herein.

ii. In any case, the scope of a Review Petition is extremely limited, and the arguments sought by the Appellant are beyond the scope of review.

11. Hence to challenge the Orders dated 18.11.2024 & 10.01.2025, the Appellant filed the present Appeal.

CONTENTION OF THE PARTIES:

12. Heard learned counsel for the parties at length and, with their able assistance, perused the paper book.

13. Learned counsel for the Appellant, while placing reliance upon the judgments rendered by the Supreme Court in *Shanti Devi (Since Deceased) Through LRs Goran v. Jagan Devi & Ors*. 2025 SCC OnLine SC 1961 and *Life Insurance Corporation of India v. Sanjeev Builders Private Limited & Anr*. (2022) 16 SCC 1 contends that the Amendment Application shall be governed by Article 65, whereby the limitation period applicable would be 12 years and hence the suit is not barred by the limitation period.

14. Per contra, learned senior counsel for the Respondent No.1 has made the following contentions:

i. The main relief sought in the Amendment Application is for the cancellation of the GPA, and hence, it will attract Article 59 for the determination of the limitation period.

ii. The remedy sought by the Appellant is barred by the limitation period. For the same, reliance is placed upon the judgments rendered in *Rajpal Singh v. Saroj (Deceased) through LRs & Anr*. (2022) 15 SCC 260; *Prem Singh & Ors. v. Birbal & Ors*. (2006) 5 SCC 353 and *Basavaraj v.*

iii. No new facts/new or important evidence have been discovered that were not in the knowledge earlier. Hence, the Review Petition has been rightly dismissed.

15. There are no other arguments made by the learned counsel for the parties.

ANALYSIS & FINDINGS:

16. The crux of the issue is whether it is Article 59 or Article 65, which would apply to the present facts in hand. The aforesaid Articles are reproduced as under:

	59	*To cancel or set aside an instrument or decree or for the rescission of a contract.*	*Three years.*	*When the facts entitling the plaintiff to have the instrument or decree cancelled or set aside or the contract rescinded first become known to him*
	65	*For possession of immovable property or any interest therein based on title.* *Explanation.-For the purposes of this article-* *(a)where the suit is by a remainderman, a reversioner (other than a landlord) or a devisee, the possession of the defendant shall be deemed to become adverse only when the estate of the remainderman, reversioner or devisee, as the case may be, falls into possession;* *(b) where the suit is by a Hindu or Muslim entitled to the possession of immovable property on the death of a Hindu or Muslim female, the possession of the defendant shall be deemed to become adverse only when the female dies;* *(c)where the suit is by a purchaser at a sale in execution of a decree when the judgment-debtor was out of possession at the date of the sale, the purchaser shall be deemed to be a representative of the judgmentdebtor who was out of possession.*	*Twelve years.*	*When the possession of the defendant becomes adverse to the plaintiff*

17. Under Article 59, the prescribed period of limitation for a suit seeking cancellation of an instrument, decree or contract is three years, reckoned from the date on which the plaintiff first

acquires knowledge of the facts giving rise to such claim. On the other hand, Article 65 stipulates a period of twelve years for a suit for possession of immovable property based on title, and the said provision is attracted where the sale deed in question is void, being fraudulent or forged, and thereby lacking legal existence.

18. Before determining the applicability of the aforesaid Articles to the present case, a perusal of the difference between Sections 31 and 34 of the Specific Relief Act, 1963 [hereinafter referred to as 'SRA'] is required. Section 31 of the SRA empowers a person who is a party to the written instrument to seek cancellation of the instrument, which is void or voidable, to protect himself from the injury which such instrument may cause. On the other hand, Section 34 of the SRA provides that a person entitled to any legal character or to any right as to any property may seek a declaration of such legal character or right, when the same is denied or is likely to be denied by another person. The distinction between the two provisions lies in the nature of relief sought- Section 31 of the SRA pertains to the annulment of a particular document, whereas Section 34 of the SRA pertains to the declaration and establishment of a legal right or status as against a claimant.

19. At this point, it is pertinent to refer to the judgment rendered in *Rajpal Singh* (supra), whereby the Supreme Court decided the period of limitation applicable in a composite suit for cancellation of the sale deed as well as for recovery of possession. The Court held that, in such a suit, the limitation period is required to be considered with respect to substantive relief of cancellation of the sale deed and not the consequential relief of recovery of possession. Therefore, a suit, which was filed for the cancellation of the sale deed, has to be filed within 3 years of the knowledge of the sale deed, otherwise, the same would be barred by the limitation period. Paragraphs 13 and 14 of the aforesaid judgment are reproduced thereof:

"13. Therefore, the subsequent present suit filed by the original plaintiff in Civil Suit No. 419 of 2007 can be said to be clearly barred by the law of limitation. The suit seeking cancellation of the sale deed was required to be filed within a period of three years from the date of the knowledge of the sale deed. Therefore, when the name of the appellant herein - original Defendant 1 was mutated in the revenue records in the year 1996 on the basis of the registered sale deed dated 19-4-1996 and when he was found to be in possession and cultivating the land since then, the suit was required to be filed by the original plaintiff within a period of three years from 1996.

14. The submission on behalf of the original plaintiff (now represented through her heirs) that the prayer in the suit was also for recovery of the possession and therefore the said suit was filed within the period of twelve years and therefore the suit has been filed within the period of limitation, cannot be accepted. ***Relief for possession is a consequential prayer and the substantive prayer was of cancellation of the sale deed dated 19-4-1996 and therefore, the limitation period is required to be considered with respect to the substantive relief claimed and not the consequential relief. When a composite suit is filed for cancellation of the sale deed as well as for recovery of the possession, the limitation period is required to be considered with respect to the substantive relief of cancellation of the sale deed, which would be three years from the date of the knowledge of the sale deed sought to be cancelled.*** *Therefore, the suit, which was filed by the original plaintiff for cancellation of the sale deed, can be said to be substantive therefore the same was clearly barred by limitation. Hence, the learned trial court ought to have dismissed the suit on the ground that the suit was barred by limitation. As such the learned first appellate court was justified and right in setting aside the judgment and decree passed by the learned trial court and consequently dismissing the suit.*

The High Court has committed a grave error in quashing and setting aside a well-reasoned and a detailed judgment and order passed by the first appellate court dismissing the suit and consequently restoring the judgment and decree passed by the trial court."

(Emphasis supplied)

20. Further reliance is placed upon the judgment passed in *Prem Singh* (supra), whereby the Court decided that Article 59 would be attracted in a suit filed for setting aside a deed of sale. The relevant paragraphs are extracted below:

"12. An extinction of right, as contemplated by the provisions of the Limitation Act, prima facie would be attracted in all types of suits. The Schedule appended to the Limitation Act, as prescribed by the articles, provides that upon lapse of the prescribed period, the institution of a suit will be barred. Section 3 of the Limitation Act provides that irrespective of the fact as to whether any defence is set out or is raised by the defendant or not, ***in the event a suit is found to be barred by limitation, every suit instituted, appeal preferred and every application made after the prescribed period shall be dismissed.***

13. Article 59 of the Limitation Act applies specially when a relief is claimed on the ground of fraud or mistake. ***It only encompasses within its fold fraudulent transactions which are voidable transactions.***

14. A suit for cancellation of instrument is based on the provisions of Section 31 of the Specific Relief Act, which reads as under:

"31. When cancellation may be ordered.-(1) Any person against whom a written instrument is void or voidable, and who has reasonable apprehension that such instrument, if left outstanding may cause him serious injury, may sue to have it adjudged void or voidable; and the court may, in its discretion, so adjudge it and order it to be delivered up and cancelled.

(2) If the instrument has been registered under the Indian Registration Act, 1908 (16 of 1908), the court shall also send a copy of its decree to the officer in whose office the instrument has been so registered; and such officer shall note on the copy of the instrument contained in his books the fact of its cancellation."

15. ***Section 31 of the Specific Relief Act, 1963 thus, refers to both void and voidable documents. It provides for a discretionary relief.***

16. When a document is valid, no question arises of its cancellation. When a document is void ab initio, a decree for setting aside the same would not be necessary as the same is non est in the eye of the law, as it would be a nullity.

17. ***Once, however, a suit is filed by a plaintiff for cancellation of a transaction, it would be governed by Article 59. Even if Article 59 is not attracted, the residuary article would be.***

18. Article 59 would be attracted when coercion, undue influence, misappropriation or fraud which the plaintiff asserts is required to be proved. Article 59 would apply to the case of such instruments. It would, therefore, apply where a document is prima facie valid. It would not apply only to instruments which are presumptively invalid*. (See Unni v. Kunchi Amma [ILR (1891) 14 Mad 26] and Sheo Shankar Gir v. Ram Shewak Chowdhri [ILR (1897) 24 Cal 77] .)*

19. It is not in dispute that by reason of Article 59 of the Limitation Act, the scope has been enlarged from the old Article 91 of the 1908 Act. By reason of Article 59, the provisions contained in Articles 91 and 114 of the 1908 Act had been combined."

(Emphasis supplied)

21. In the case in hand, the GPA is prima facie valid unless it is proved that there was a revocation of the same. On a perusal of the 13 Sale Deeds, it is evident that they were executed by Mr. Bhullar in the capacity of an agent of the Appellant, through the GPA executed by the Appellant. Further, the Appellant has stated in Para 7 of the plaint that he asked Mr. Bhullar to bring back the GPA, and thereafter, he revoked the GPA. However, no written document signifying the revocation of the GPA has been filed by the Appellant.

22. It is pertinent to note that a duly registered GPA can only be revoked by a registered Deed of Revocation. Thus, in the absence of a Deed of Revocation, this Court is prima facie of the view that the GPA has not been revoked in accordance with the law. Accordingly, Article 59 would be attracted as the fraud, which the Appellant asserts is required to be proved.

23. Further, learned counsel representing the Appellant has placed reliance on the judgment rendered by the Supreme Court in *Shanti Devi* (supra), whereby in the absence of sale consideration being tendered, the sale deed was made. Thus, in the eyes of law, the sale deed cannot be said to be executed, and therefore, the plaintiff would not be required to seek the cancellation of the said instrument. However, in the case in hand, the instrument, i.e., the GPA prima facie is a valid document. Hence, the aforesaid judgment is distinguishable and not applicable to the present case.

24. Further, reliance is placed upon the judgment rendered in *Life Insurance Corporation of India* (supra), whereby an amendment of the plaint was sought, for the purpose of enhancing the amount towards damages in a suit for specific performance of an agreement. The issue, herein, was with regard to Sections 21(5) and 22(2) of the SRA i.e., specific provisos permitting amendment of a plaint for including a claim in cases where the plaintiff had not claimed compensation earlier. The Court, herein, allowed the amendment. However, the ratio of the aforesaid judgment is not applicable in the case in hand as the same is different from the peculiar facts of the present case.

25. Therefore, this Court is of the considered view that Article 59 is attracted in the present case. Though the present suit is one for possession, but the substantive relief is for cancellation/annulment of the various Sale Deeds executed by the Appellant through his GPA. By the proposed amendment, the prayer that was sought to be introduced was for cancellation of the GPA after a period of eight years after the Appellant came to know of the Sale Deeds executed on the strength of GPA and after seven years of filing of the suit. Thus, the relief sought to be added by the Amendment Application is barred under Article 59.

26. At this juncture, it is pertinent to refer to the principles governing the scope of allowing an amendment to revive a right, which is time-barred. The learned Single Judge, in the Judgment dated 18.11.2024, while placing reliance upon the judgments rendered by the Supreme Court in *L. J. Leach & Co. Ltd. v. Jardine Skinner & Co*. (1957) SCC OnLine SC 68 and *T. N. Alloy Foundry Co. Ltd v. T. N. Electricity Board* (2004) 3 SCC 392, has held that the Courts must be extremely liberal in granting the prayer for amendments, however, the Courts would, as a rule, decline to allow amendments, if a fresh suit on the amended claim would be barred by limitation on the date of the Application. The relevant extract of the Judgment dated 18.11.2024, are reproduced below:

"19. The law regarding the powers of the Court to allow an amendment of plaint under Order VI Rule 17 CPC has been laid down by the Apex Court in several judgments. ***It is well settled that Courts must be extremely liberal in granting the prayer for amendment, however, Court would as a rule, decline to allow amendments, if a fresh suit on the amended claim would be barred by limitation on the date of the application****. As early as in 1957, the Apex Court in L. J. Leach and Co. Ltd v. Jardine Skinner and Co., (1957) SCC OnLine SC 68 has observed as under:*

"16. It is no doubt true that courts would, as a rule, decline to allow amendments, if a fresh suit on the amended claim would be barred by limitation on the date of the application. But that is a factor to be taken in account in exercise of the discretion as to whether amendment should be ordered and does not affect the power of the court to order it, if that is required in the interest of justice."

20. The said judgment has been followed in T. N. Alloy Foundry Co. Ltd v. T. N. Electricity Board, (2004) 3 SCC 392. It is also apposite to place reliance on the judgment of the Privy Council in Charan Das v. Amir Khan, (1920) SCC OnLine PC 51, wherein the Privy Council has held that the power to make an amendment cannot be exercised where its effect is to take away from the Defendant a legal right which had accrued to him by lapse of time. The Court has to be cautious to consider as to whether allowing the amendment would cause injury to the Defendant.

21. It is well settled that limitation bars a remedy and does not extinguish the right. ***The Courts have to be careful if the remedy which stands extinguished would be permitted to be revived by permitting the amendment then substantial prejudice will be caused to the Defendant by permitting such an amendment and such amendment, therefore, cannot be allowed****."*

(Emphasis supplied)

27. Further, the same has been discussed in detail by the Supreme Court in *Basavaraj* (supra), wherein a suit for partition of ancestral property was filed, pleading that no actual partition of the property ever took place. When the suit was at the fag end, an amendment application was filed to add a prayer in the suit for a declaration that an earlier compromise decree, passed 5 years and 3 months before the date of filing of the amendment application, was null and void. The Court held that, initially, the suit was filed for partition and separate possession and the relief sought by way of the amendment would change the nature of the suit, which is impermissible. Additionally, the right has already accrued to the other side, and the amendment sought shall cause prejudice to them. The relevant extracts from the above-mentioned judgment are reproduced below:

"14. This Court in Revajeetu case [Revajeetu Builders & Developers v. Narayanaswamy & Sons, (2009) 10 SCC 84 : (2009) 4 SCC (Civ) 37] enumerated the factors to be taken into consideration by the court while dealing with an application for amendment. ***One of the important factor is as to whether the amendment would cause prejudice to the other side or it fundamentally changes the nature and character of the case or a fresh suit on the amended claim would be barred on the date of filing the application.***

15. If the amendment is allowed in the case in hand, certainly prejudice will be caused to the appellant. This is one of the important factors to be seen at the time of consideration of any application for amendment of pleadings. Any right accrued to the opposite party cannot be taken away on account of delay in filing the application*.*

16. In the case in hand, the compromise decree was passed on 14-10-2004 in which the plaintiffs were party. The application for amendment of the plaint was filed on 8-2-2010 i.e. 5 years and 03 months after passing of the compromise decree, which is sought to be challenged by way of amendment. The limitation for challenging any decree is three years (reference can be made to Article 59 in Part IV of the Schedule attached to the Limitation Act, 1963). A fresh suit to challenge the same may not be maintainable. Meaning thereby, the relief sought by way of amendment

was time-barred. As with the passage of time, right had accrued in favour of the appellant with reference to challenge to the compromise decree, the same cannot be taken away. In case the amendment in the plaint is allowed, this will certainly cause prejudice to the appellant. What cannot be done directly, cannot be allowed to be done indirectly."

(Emphasis supplied)

28. In the case in hand, the Amendment Application was filed on 11.09.2024, i.e. seven years after the institution of the suit and eight years after coming to know that the GPA has been allegedly misused. As it has been established above, the limitation period applicable in the present case is three years. Meaning thereby, the relief sought by way of the amendment was time-barred. With the passage of time, the right had accrued in favour of the Respondents, and the same cannot be taken away by way of an amendment. In case the amendment in the plaint is allowed, this will certainly cause prejudice to the Respondents. Thus, what cannot be done directly cannot be done indirectly.

29. Secondly, generally amendments are allowed in the pleadings to avoid multiplicity of litigation. Further, an omission of relief in a suit can be corrected through a subsequent amendment application if the amendment is necessary to determine the real controversy and is sought in good faith. The Court may allow such amendment if the omission was an error or inadvertence, but it is liable to be refused if it is a dishonest attempt to introduce a new case or cause undue prejudice to the opposing party, especially after the trial has commenced, unless the party can prove that they could not raise it earlier despite due diligence. Thus, before considering the application for amendment, the Court needs to take into consideration whether the application is bona fide or mala fide and whether such an amendment causes prejudice to the other side which cannot be compensated adequately in terms of money.

30. In the present case, all the 13 Sale Deeds were executed on the strength of the GPA. Hence the Appellant, despite having knowledge, has failed to seek declaration that the GPA should be revoked. It can be safely assumed that the Appellant deliberately omitted to seek relief, which is now sought to be added through the Amendment Application. Therefore, the grant of relief sought to be added through the Amendment Application would violate the principles enshrined in Order II Rule 2 of the CPC.

31. Keeping in view the aforesaid discussion, it is clear that the Appellant has taken eight years from the date of knowledge to file the Amendment Application, therefore, it is evident that there has been a deliberate omission of the prayer sought in the Amendment Application. Additionally, there has been no sufficient reason found which shows that in spite of due diligence, such an amendment could not have been sought earlier. Therefore, the Amendment Application is liable to be dismissed.

32. This Court is of the considered view that the learned Single Judge has rightly held that if the amendment is allowed in the present case, prejudice will be caused to the Respondents. Hence, the Amendment Application has been rightly dismissed.

33. Further, this Court is of the considered view that the Review Petition has been rightly dismissed by the learned Single Judge. The relevant extract of the Judgment dated 10.01.2025 is

reproduced below:

“10. It is well settled that review cannot be an appeal in disguise. The Apex Court in Haridas Das v. Usha Rani Banik,(2006) 4 SCC 78, has held as under:-

"13. In order to appreciate the scope of a review, Section 114 CPC has to be read, but this section does not even adumbrate the ambit of interference expected of the court since it merely states that it "may make such order thereon as it thinks fit". The parameters are prescribed in Order 47 CPC and for the purposes of this lis, permit the defendant to press for a rehearing "on account of some mistake or error apparent on the face of the records or for any other sufficient reason". The former part of the rule deals with a situation attributable to the applicant, and the latter to a jural action which is manifestly incorrect or on which two conclusions are not possible. Neither of them postulate a rehearing of the dispute because a party had not highlighted all the aspects of the case or could perhaps have argued them more forcefully and/or cited binding precedents to the court and thereby enjoyed a favourable verdict. This is amply evident from the Explanation to Rule 1 of Order 47 which states that the fact that the decision on a question of law on which the judgment of the court is based has been reversed or modified by the subsequent decision of a superior court in any other case, shall not be a ground for the review of such judgment. Where the order in question is appealable the aggrieved party has adequate and efficacious remedy and the court should exercise the power to review its order with the greatest circumspection. This Court in Thungabhadra Industries Ltd. v. Govt. of A.P. [(1964) 5 SCR 174 : AIR 1964 SC 1372] held as/allows: (SCRp. 186)

"[T]here 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 indisguise whereby an erroneous decision is reheard and corrected, but lies only for patent error. …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, a clear case of error apparent on the face of the record would be made out."

11. Similarly the Apex Court in Meera Bhanja v. Nirmala Kumari Choudhury, (1995) 1 SCC 170, has held as under:-

"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 v. AribamPishak Sharma [(1979) 4 SCC 389: AIR 1979 SC 1047] 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 ofa 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.’ " (SCCpp. 172-73,para 8)"

12. As stated earlier, in the opinion of this Court, the Plaintiff is trying to state that the Court has failed to consider the effect of Article 65 of the Limitation Act which would be outside the scope of review. It is not the case of the Plaintiff that this Court has placed reliance on a fact which is not on the record or that any new fact has come to the

knowledge of the Plaintiff or that any judgment on which reliance has been placed stood overruled and the effect of which is the order is per incuriam. Since the attempt by the Plaintiff is to re-argue the matter by contending that this Court has failed to consider the effect of considering Article 65 of the Limitation Act, this Court is not inclined to accept the application for review of the Order dated 18.11.2024.

34. Further, the Supreme Court in a recent judgment of *Malleeswari v. K. Suguna & Anr*. 2025 SCC OnLine SC 1927 reiterated the strict limitations on the scope of review jurisdiction under Section 114 and Order 47 Rule 1 of CPC. Paragraph 15 of the aforesaid judgment has been produced thereof:

"15. It is axiomatic that the right of appeal cannot be assumed unless expressly conferred by the statute or the rules having the force of a statute. The review jurisdiction cannot be assumed unless it is conferred by law on the authority or the Court. Section 114 and Order 47, Rule 1 of CPC deal with the power of review of the courts. The power of review is different from appellate power and is subject to the following limitations to maintain the finality of judicial decisions:

15.1 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 of CPC. [Meera Bhanja v. Nirmala Kumari Chaudhary, (1995) 1 SCC 170]

15.2 Review is not to be confused with appellate powers, which may enable an appellate court to correct all manner of errors committed by the subordinate court. [Aribam Tuleshwar Sharma v. Aribam Pishak Sharma, (1979) 4 SCC 389]

15.3 In exercise of the jurisdiction under Order 47 Rule 1 of 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. [Parsian Devi v. Sumitri Devi, (1997) 8 SCC 715]

15.4 The power of review can be exercised for the correction of a mistake, but not to substitute a view. Such powers can be exercised within the limits specified in the statute governing the exercise of power. [Lily Thomas v. Union of India, (2000) 6 SCC 224]

15.5 ***The review court does not sit in appeal over its own order. A rehearing of the matter is impermissible. It constitutes an exception to the general rule that once a judgment is signed or pronounced, it should not be altered [Inderchand Jain v. Motilal, (2009) 14 SCC 663]. Hence, it is invoked only to prevent a miscarriage of justice or to correct grave and palpable errors. [Shivdev Singh v State of Punjab, AIR 1963 SC 1909]***

16. To wit, through a review application, an apparent error of fact or law is intimated to the court, but no extra reasoning is undertaken to explain the said error. The intimation of error at the first blush enables the court to correct apparent errors instead of the higher court correcting such errors. At both the above stages, detailed reasoning is not warranted."

(Emphasis Supplied)

35. Therefore, the scope of review is extremely limited and must only be allowed when there is an error apparent on the face of the record or when there is any new or important evidence that is discovered which was not in the knowledge and could not be provided when the order was passed, despite conducting due diligence.

36. In the Review Petition, the Appellants again attempted to make arguments on the applicability of Article 65, which had already been dealt with in the Order dated 18.11.2024. Thus, the

averments made in the Review Petition are beyond the scope of review. In any case, if the averments were within the scope of review, the applicability of Article

59 has already been established.

CONCLUSION:

37. Thus, the Amendment Application has been rightly dismissed by the Order/Judgment dated 18.11.2024 and 10.01.2025.

38. Keeping in view the aforesaid observations, it is evident that the present Appeal lacks merit and is accordingly dismissed. The pending application also stands closed.