सत्यमेव जयते

न्यायालय

सहायक कलक्टर/उपखण्ड अधिकारी

गुढामालानी—बाड़मेर

(पीठासीन अधिकारी —केशव कुमार मीना आर.ए.एस.)

वाद संख्याः— 2024/249 दर्ज तिथिः—02.07.2024

वादी		प्रतिवादी
गिरधारीराम पुत्र गुमनाराम वगैरह	बनाम	गोमाराम पुत्र कानाराम वगैरह
जरिये अधिवक्ता श्री बाबूलाल		जरिये अधिवक्ता श्री चिमनसिंह चौधरी

प्रार्थना पत्र अन्तर्गत आदेश—47 नियम—01
सिविल प्रक्रिया संहिता—1908
निर्णय तिथिः—23.05.2025

—:निर्णयः—

1. आज यह पत्रावली प्रार्थना—पत्र सिविल प्रक्रिया संहिता—1908 के आदेश—47 नियम—01 के अन्तर्गत बाबत् निर्णय प्रस्तुत हुई। प्रकरण का सुक्ष्म एवं सारतः वृतान्त इस प्रकार है कि प्रार्थी द्वारा राजस्थान भू—राजस्व अधिनियम—1956 की धारा—131 के तहत एक प्रार्थना—पत्र प्रस्तुत कर निवेदन किया कि प्रार्थीगण की खातेदारी आराजी खसरा संख्या 133/35.8065 है0 मौजा खडाली तहसील गुड़ामालानी में अवस्थित है। प्रार्थीगण की खातेदारी आराजी खसरा संख्या 133/35.8065 है0 मौजा खडाली तहसील गुड़ामालानी के पड़ौस में अप्रार्थी संख्या 01—03 की खातेदारी आराजी खसरा संख्या 133/1/35.8065 है0 मौजा खडाली तहसील गुड़ामालानी अवस्थित है। प्रार्थी ने अभिकथन किया कि प्रार्थी की खातेदारी आराजी व अप्रार्थीगण की खातेदारी आराजी की राजस्व नक्शे में तरमीमें मुताबिक कब्जा काश्त के अनुसार नहीं है। अंत में प्रार्थी ने प्रार्थी की खातेदारी आराजी व अप्रार्थीगण की खातेदारी आराजी की राजस्व नक्शे में तरमीमें मुताबिक कब्जा काश्त के अनुसार करने का निवेदन किया। उक्त प्रकरण संख्या 2024/249 का दिनांक 17.02.2025 को हाजा न्यायालय से निर्णय कर दिया गया है। उक्त प्रकरण संख्या 2024/249 का दिनांक 17.02.2025 को हाजा न्यायालय से निर्णय पर प्रतिवादी द्वारा सिविल प्रक्रिया संहिता—1908 के आदेश—47 नियम—01 के तहत हाजा न्यायालय में पुनरावलोकन प्रार्थना पत्र प्रस्तुत किया। उक्त पुनरावलोकन प्रार्थना पत्र का विवरण निम्न प्रकार हैः—

    - कि उक्त प्रकरण संख्या 2024/249 की पत्रावली पर अप्रार्थीगण द्वारा दिनांक 16.01.2025 को मौका रिपोर्ट पर आपत्ति प्रस्तुत की गई। उसके पश्चात दिनांक 30.01.2025 को पत्रावली पर आपत्ति सुनने के पश्चात पत्रावली अप्रार्थीगण के जवाब में मुकर्रर की गई। अप्रार्थीगण द्वारा अपनी आपत्ति में अभिकथन किया कि प्रार्थी व अप्रार्थी की संयुक्त खातेदारी आराजी का मूल [illegible] संख्या 133 मौजा खडाली तहसील गुड़ामालानी थ[illegible] प्रार्थी व अप्रार्थी की संयुक्त खातेदारी आराजी का मूल खसरा संख्या 133 मौजा खडाली तहसील गुड़ामालानी का विभाजन का दावा संख्या 60/1984 व तथा विभाजन का दावा संख्या 4/06/1993 में दिनांक 08.01.1998 को प्रारंभिक डिक्री जारी की गई। दिनांक 08.01.1998 की प्रारंभिक डिक्री के अनुसार तहसीलदार गुड़ामालानी द्वारा

विभाजन प्रस्ताव प्रस्तुत किया गया। उक्त विभाजन प्रस्ताव के अनुसार दिनांक 18.04.2001 को माफिक विभाजन प्रस्ताव वाद को स्वीकार कर दावा का निर्णय कर अंतिम डिक्री जारी की गई। उक्त प्राथमिक डिक्री दिनांक 08.01.1998 व अंतिम डिक्री दिनांक 18.04.2001 वर्तमान में अंतिम आदेश है। जो कि वर्तमान में भी प्रभावी है। उक्त आदेश की पालना में प्रार्थी को खसरा संख्या 133 व अप्रार्थी को खसरा संख्या 133/1 नवीन खसरे कायम किए जाकर पृथक—पृथक खाता विभाजन करते हुए राजस्व नक्शे में मुताबिक विभाजन प्रस्ताव तरमीम की गई।

- कि प्रार्थी द्वारा वर्तमान में भी प्रभावी उक्त प्राथमिक डिक्री दिनांक 08.01.1998 व अंतिम डिक्री दिनांक 18.04.2001 को अप्रत्यक्ष रूप से चुनौती देते हुए आदेश दिनांक 18.04.2001 की पालना में प्रार्थी को खसरा संख्या 133 व अप्रार्थी को खसरा संख्या 133/1 नवीन खसरे कायम किए जाकर पृथक—पृथक खाता विभाजन करते हुए राजस्व नक्शे में मुताबिक विभाजन प्रस्ताव अंकित तरमीम को बदलवाने हेतु तरमीम दुरस्ती का प्रार्थना—पत्र प्रस्तुत किया।
- कि प्रकरण में प्राप्त मौका रिपोर्ट के अनुसार मौके पर स्थिति नहीं होने के कारण इस प्रकरण में अप्रार्थीगण का जवाब प्रस्तुत करना अभी शेष है। परंतु अप्रार्थीगण को जवाब का अवसर दिए बिना प्रकरण का निर्णय करने से प्रथम दृष्टया रिकॉर्ड व कार्यवाही की गलती स्पष्ट होती है। इस आधार पर प्रार्थी/प्रतिवादी का पुनरावलोकन का प्रार्थना—पत्र स्वीकार किया जावे।

2. प्रकरण दर्ज रजिस्टर किया जाकर अप्रार्थीगण को तलब किया गया। अप्रार्थीगण असालतन—वकालतन उपस्थित न्यायालय हुए। प्रकरण में प्रार्थी द्वारा सिविल प्रक्रिया संहिता—1908 के आदेश—47 नियम—01 के अन्तर्गत प्रस्तुत प्रार्थना—पत्र को खारिज करने का अनुरोध करते हुए जवाब/सीधे बहस प्रस्तुत कर निम्न प्रकार निवेदन किया—

    - कि प्रार्थी का आपत्ति प्रस्तुत करने एवं अप्रार्थीगण के जवाब में पत्रावली मुकर्रर करने का कथन मनगढत एवं निराधार है। जबकि वास्तव में अप्रार्थीगण द्वारा प्रस्तुत की गई आपत्ति को अंतिम बहस में पीठासीन अधिकारी द्वारा सुनते हुए एवं तत्पश्चात् पत्रावली पर उपलब्ध मौका रिपोर्ट के अनुसार प्रार्थीगण की ढाणियां, टांके व चारागाह खसरा संख्या 133/1 में आने से तरमीम दुरूस्त किया जाना न्यायोचित था। इसी कारण से न्यायालय द्वारा अप्रार्थीगण की आपत्ति को अस्वीकार करते हुए प्रकरण दिनांक 17.02.2025 को विधिनुसार अंतिम रूप से निस्तारित कर दिया गया।
    - कि वादग्रस्त आराजी के संबंध में पूर्व में प्रकरण संख्या 60/1984 नये वाद संख्या 426/1993 में पारित निर्णय के विरूद्ध अप्रार्थीगण द्वारा अपील प्रस्तुत की गई थी परंतु उक्त अपील माननीय राजस्व अपील अधिकारी मुख्यालय जोधपुर द्वारा खारिज कर दी गई थी। तत्पश्चात् अपीलकर्ता की मृत्यु होने के कारण अप्रार्थीगण आगे संघर्ष नहीं कर पाए एवं तत्कालीन न्यायालय सहायक जिलाधीश बाड़मेर द्वारा दिनांक 18.04.2001 को पत्रावली प्राप्त होने पर विभाजन प्रस्ताव के अनुसार प्रकरण में अंतिम डिक्री पारित कर दी गई। जिसमें खसरा संख्या 133 को विभाजित कर मूल खसरा संख्या प्रार्थीगण के नाम व खसरा संख्या 133/1 अप्रार्थीगण के नाम दर्ज किया गया। परंतु उक्त वाद में अंतिम डिक्री जारी होने के पश्चात् राजस्व अभिलेखों में नहीं किया गया परंतु लट्ठा ट्रैस में तरमीम गलत अंकन करने से हस्तगत प्रार्थना पत्र वास्ते तरमीम

शुद्धि का प्रार्थीगण द्वारा प्रस्तुत किया गया था। जिसका न्यायालय द्वारा गुणावगुण पर निस्तारण सही किया होने से अप्रार्थीगण का उक्त प्रार्थना—पत्र काबिल—ए—खारिज है।

- कि उक्त परिप्रेक्ष्य में न्यायालय श्रीमान के आदेश दिनांक 17.02.2025 में किसी प्रकार की कोई वैधानिक त्रुटि होना दृष्टिगोचर नहीं होता है और नही ऐसा कोई कारण अप्रार्थीगण द्वारा उल्लेखित किया गया है। जिससे न्यायालय द्वारा पारित निर्णय में किसी प्रकार का संशोधन इत्यादि किया जा सके। अतः उक्त आधार पर अप्रार्थीगण द्वारा सिविल प्रक्रिया संहिता—1908 के आदेश—47 नियम—01 के तहत प्रस्तुत प्रार्थना—पत्र काबिल—ए—खारिज है।

Provision

3. प्रकरण में पत्रावली का अवलोकन किया गया व बहस पर मनन किया गया है। प्रकरण में हाजा न्यायालय द्वारा दिनांक 17.02.2025 को निर्णित प्रकरण संख्या 2024/249 का पुनरावलोकन चाहने हेतु सिविल प्रक्रिया संहिता—1908 के आदेश—47 नियम—01 के तहत प्रार्थना पत्र प्रस्तुत किया गया है। प्रकरण में विश्लेषण से पूर्व सर्वप्रथम सिविल प्रक्रिया संहिता—1908 के आदेश—47 नियम—01 के प्रावधान का प्रकरण में अवलोकन किया जाना उचित प्रतीत होता है। अतः सिविल प्रक्रिया संहिता—1908 के आदेश—47 नियम—01 एवं अन्य संबंधित प्रावधान का उद्धरण इस प्रकार हैः—

ORDER XLVII
REVIEW

1. Application for review of judgment*.—(1) Any person considering himself aggrieved—*
(a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred,
(b) by a decree or order from which no appeal is allowed, or
(c) by a decision on a reference from a Court of Small Causes,
and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the Court which passed the decree or made the order twithstanding the pendency of an appeal by some other party except where the ground of such appeal is common to the applicant and the appellant, or when, being respondent, he can present to the Appellate Court the case on which he applied for the review.

Explanation.—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.

4. साथ ही प्रकरण में सिविल प्रक्रिया संहिता—1908 की धारा—114 के प्रावधान का उद्धरण प्रासंगिक है जो कि निम्न प्रकार है:—

114. Review*.—Subject as aforesaid any person considering himself aggrieved—*
(a) by a decree or order from which an appeal is allowed by this Code, but from which no appeal has been preferred.
(b) by a decree or order from which no appeal is allowed by this Code, or

(c) by a decision on a reference from a Court of Small Causes, may apply for a review of judgment to the Court which passed the decree or made the order, and the Court may make such order thereon as it thinks fit.

Interpretation

5. माननीय मध्यप्रदेश उच्च न्यायालय द्वारा पुनरावलोकन याचिका संख्या 782 / 2024 उनवान *Hukma Dading vs Jitendra Dading* में दिनांक 24.06.2024 को दिये गये निर्णय में सिविल प्रक्रिया संहिता—1908 के आदेश—47 नियम—01 के प्रावधान की विस्तृत व्याख्या (Interpretation) की है। जिसके प्रासंगिक पैरा का उद्धरण इस प्रकार हैः—

8. A glance at the aforesaid provisions makes it clear that a review application would be maintainable on (i) discovery of new and important matters or evidence which, after exercise of due diligence, were not within the knowledge of the applicant or could not be produced by him when the decree was passed or the order made; (ii) on account of some mistake or error apparent on the face of the record; or (iii) for any other sufficient reason.

9. In Col. Avatar Singh Sekhon v. Union of India and Others reported in 1980 Supp SCC 562, The Apex Court observed that a review of an earlier order cannot be done unless the court is satisfied that the material error which is manifest on the face of the order, would result in miscarriage of justice or undermine its soundness. The observations made are as under:

"12. A review is not a routine procedure. Here we resolved to hear Shri Kapil at length to remove any feeling that the party has been hurt without being heard. But we cannot review our earlier order unless satisfied that material error, manifest on the face of the order, undermines its soundness or results in miscarriage of justice. In Sow Chandra Kante and Another v. Sheikh Habib reported in (1975) 1 SCC 674, this Court observed :
'A review of a judgment is a serious step and reluctant resort to it is proper only where a glaring omission or patent mistake or like grave error has crept in earlier by judicial fallibility. The present stage is not a virgin ground but review of an earlier order which has the normal feature of finality.'"

(emphasis added)

6. माननीय मध्यप्रदेश उच्च न्यायालय द्वारा सिविल अपील संख्या 5503—04 / 2022 उनवान *S. Madhusudhan Reddy vs V. Narayana Reddy* में दिनांक 18.08.2022 को दिये गये निर्णय में सिविल प्रक्रिया संहिता—1908 के आदेश—47 नियम—01 के प्रावधान की विस्तृत व्याख्या (Interpretation) की है। जिसके प्रासंगिक पैरा का उद्धरण इस प्रकार हैः—

26. As can be seen from the above exposition of law, it has been consistently held by this Court in several judicial pronouncements that the Court's jurisdiction of review, is not the same as that of an appeal. A judgment can be open to review if there is a mistake or an error apparent on the face of the record, but an error that has to be detected by a process of reasoning, cannot be described as an error apparent on the face of the record for the Court to exercise its powers of review under Order XLVII Rule 1 CPC. In the guise of exercising powers of review, the Court can correct a mistake but not substitute the view taken earlier merely because there is a possibility of taking two views in a matter. A judgment may also

be open to review when any new or important matter of evidence has emerged after passing of the judgment, subject to the condition that such evidence was not within the knowledge of the party seeking review or could not be produced by it when the order was made despite undertaking an exercise of due diligence. There is a clear distinction between an erroneous decision as against an error apparent on the face of the record. An erroneous decision can be corrected by the Superior Court, however an error apparent on the face of the record can only be corrected by exercising review jurisdiction. Yet another circumstance referred to in Order XLVII Rule 1 for reviewing a judgment has been described as "for any other sufficient reason". The said phrase has been explained to mean "a reason sufficient on grounds, at least analogous to those specified in the rule" (Refer: Chajju Ram v. Neki Ram17 and Moran Mar Basselios Catholicos and Anr. v. Most Rev. Mar Poulose Athanasius and Others18).

7. माननीय उच्चतम न्यायालय द्वारा न्यायिक दृष्टांत *2000 (2) ALD (CRI) 686* उनवान *Lily Thomas, Etc. Etc. vs Union Of India* में दिनांक 05.04.2000 को दिये गये निर्णय में सिविल प्रक्रिया संहिता—1908 के आदेश—47 नियम—01 के प्रावधान की विस्तृत व्याख्या (Interpretation) की है। जिसके प्रासंगिक पैरा का उद्धरण इस प्रकार हैः—

3. The dictionary meaning of the word "review" is "the act of looking; offer something again with a view to correction or improvement. It cannot be denied that the review is the creation of a statute. This Court in Patel Narshi Thakersh and Ors. v. Pradyunman singh ji Arjun singh ji held that the power of review is not an inherent power. It must be conferred by law either specifically or by necessary implication. The review is also not an appeal in disguise. If cannot be denied that justice is a virtue which transcends all barriers and the rules or procedures or technicalities of law cannot stand in the way of administration of Justice. Law has to bend before Justice. If the Court finds that the error pointed out in the review petition was under a mistake and the earlier judgment would not have been passed but for erroneous assumption which in fact did not exist and its perpetration shall result in miscarriage of justice nothing would preclude the Court from rectifying the error. This Court in S. Nagaraj and Ors etc. v. State of Karnataka and Anr. etc. 1993 Supp.(4) SCC 595 held:

Review literally and even judicially means re-examination or reconsideration. Basic philosophy inherent in it is the universal acceptance of human fallibility. Yet in the realm of law the courts and even the statutes lean strongly in favour of finality of decision legally and properly made. Exceptions both statutorily and judicially have been carved out to correct accidental mistakes or miscarriage of justice. Even when there was no statutory provision and no rules were framed by the highest court indicating the circumstances in which it could rectify its order the courts culled out such power to avoid abuse of process or miscarriage of justice. In Raja Prithwi Chand Law Choudhury v. Sukhraj Rai the Court observed that even though no rules had been framed permitting the highest Court to review its order yet it was available on the limited and narrow ground developed by the Privy Council and the House of Lords. The Court approved the principle laid down by the Privy Council in Rajender Narain Rao v. Govind Singh (1836) 1 Moo PC 117 that an order made by the Court was final and could not be altered.

...neverthless, in by inadvertence in embodying the judgments, by errors have been introduced, these Courts possess, by Common Law, the same power which the Courts of record and statute have of rectifying the mistakes which have crept in....The House of Lords exercises a similar power of rectifying mistakes made

in drawing up its own judgments, and this Court must possess the same authority. The Lords have however gone a step further, and have corrected mistakes introduced through inadvertence in the details of judgments; or have supplied manifest defects in order to enable the decrees to be enforced, or have added explanatory matter, or have reconciled inconsistencies. Basis for exercise of the power was stated in the same decision as under:
It is impossible to doubt that the indulgence extended in such cases is mainly owing to the natural desire prevailing to prevent irremediable injustice being done by a Court of last resort, where by some accident, without any blame, the party has not been heard and an order has been inadvertently made as if the party had been heard.

Scope & Object

8. माननीय उच्चतम न्यायालय द्वारा न्यायिक दृष्टांत *AIRONLINE 1997 SC 3* उनवान *Parsion Devi & Ors vs Sumitri Devi* में दिनांक 14.10.1997 को दिये गये निर्णय में सिविल प्रक्रिया संहिता—1908 के आदेश—47 नियम—01 के प्रावधान के क्षेत्र एवं उद्देश्य सिद्धांत विस्तृत व्याख्या की है। जिसके प्रासंगिक पैरा का उद्धरण इस प्रकार हैः—

It is well settled that review proceedings have to be strictly confined to the ambit and scope of Order 47 Rule 1 CPC. In Thungabhadra Industries Ltd. Vs. The Government of Andhra Pradesh (1965 (5) SCR 174 at 186) this Court opined:

> *"What, however, we are not concerned with is whether the statement in the order of September 1959 that the case did not involve any substantial question of law is an "error apparent on the face of the record". The fact that on the earlier occation that 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 distinct 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 errneous decision is reheard corrected. but lies only for patent error."*
>
> *(Emphasis ours)*

Again, in Smt. Meera Bhanjia Vs. Smt. Nirmala Kumari Choudhury (1995 (1) SCC 170) while quoting with approval a passage from Abhiram Taleshwar Sharma Vs. Abhiram Pishak Sharma & Ors. (1979 (4) SCC 389), this Court once again held that review proceedings are not by way of an appeal and have to strictly confined to the scope and ambit of Order 47 Rule 1 CPC.

Under Order 47 Rule 1 CPC a judgment may be open to review inter alia if there is a mistake or an error apparent on the face of the record. An error which is not self evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of the record justifying the court to exercise its power review under Order 47 Rule 1 CPC. In exercise of the jurisdiction under Order 47 Rule 1 CPC it is not permissible for an erroneous decision to be "reheard and corrected". A review petition, it must be remembered has limited purpose and cannot be allowed to be "an appeal in disguise."

9. माननीय उच्चतम न्यायालय द्वारा न्यायिक दृष्टांत *2000 (2) ALD (CRI) 686* उनवान *Lily Thomas, Etc. Etc. vs Union Of India* में दिनांक 05.04.2000 को दिये गये निर्णय में सिविल प्रक्रिया संहिता—1908 के आदेश—47 नियम—01 के प्रावधान के क्षेत्र एवं उद्देश्य सिद्धांत विस्तृत व्याख्या की है। जिसके प्रासंगिक पैरा का उद्धरण इस प्रकार हैः—

> *"54. Article 137 empowers this court to review its judgments subject to the provisions of any law made by Parliament or any rules made under Article 145 of the Constitution. The Supreme Court Rules made in exercise of the powers under Article 145 of the Constitution prescribe that in civil cases, review lies on any of the grounds specified in Order 47 rule 1 of the Code of Civil Procedure which provides:*
>
> > *"1. Application for review of judgment - (1) Any person considering himself aggrieved -*
> > *(a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred,*
> > *(b) by a decree or order from which no appeal is allowed, or*
> > *(c) by a decision on a reference from a Court of Small Causes, and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the Court which passed the decree or made the order.' Under Order XL Rule 1 of the Supreme Court Rules no review lies except on the ground of error apparent on the face of the record in criminal cases.*
>
> *Order XL Rule 5 of the Supreme Court Rules provides that after an application for review has been disposed of no further application shall be entertained in the same matter.*
>
> *XXX XXX XXX*
>
> *56. It follows, therefore, that the 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. The review cannot be treated like an appeal in disguise. The mere possibility of two views on the subject is not a ground for review. Once a review petition is dismissed no further petition of review can be entertained. The rule of law of following the practice of the binding nature of the larger Benches and not taking different views by the Benches of coordinated jurisdiction of equal strength has to be followed and practised. However, this Court in exercise of its powers under Article 136 or Article 32 of the Constitution and upon satisfaction that the earlier judgments have resulted in deprivation of fundamental rights of a citizen or rights created under any other statute, can take a different view notwithstanding the earlier judgment.*
>
> *XXX XXX XXX*
>
> *58. Otherwise also no ground as envisaged under Order XL of the Supreme Court Rules read with Order 47 of the Code of Civil Procedure has been pleaded in the review petition or canvassed before us during the arguments for the purposes of reviewing the judgment in the case of Sadhu Singh, President, Kalyani and Others v. Union of India and others reported in (1995) 3 SCC 635. It is not the case of the petitioners that they have discovered any new and important matter which after the exercise of due diligence was not within their knowledge or could not be brought to the notice of the Court at the time of*

passing of the judgment. All pleas raised before us were in fact addressed for and on behalf of the petitioners before the Bench which, after considering those pleas, passed the judgment in the case of Sarla Mudgal, President, Kalyani and Others v. Union of India and others reported in (1995) 3 SCC 635. We have also not found any mistake or error apparent on the face of the record requiring a review. Error contemplated under the rule must be such which is apparent on the face of the record and not an error which has to be fished out and searched. It must be an error of inadvertence. No such error has been pointed out by the learned counsel appearing for the parties seeking review of the judgment. The only arguments advanced were that the judgment interpreting Section 494 amounted to violation of some of the fundamental rights. No other sufficient cause has been shown for reviewing the judgment. The words "any-other sufficient reason appearing in Order 47 Rule 1 CPC" must mean "a reason sufficient on grounds at least analogous to those specified in the rule" as was held in Chajju Ram v. Neki Ram reported in AIR 1922 PC 112 and approved by this Court in Moran Mar Basselios Catholicos. v. Most Rev. Mar Poulose Athanasius reported in 1955 SCR 520. Error apparent on the face of the proceedings is an error which is based on clear ignorance or disregard of the provisions of law. in T.C. Basappa v. T. Nagappa reported in 1955 SCR 250 this Court held that such error is an error which is a patent error and not a mere wrong decision. In Hari Vishnu Kamath v. Ahmad reported in AIR 1955 SC 233, it was held:

> *"It is essential that it should be something more than a mere error; it must be one which must be manifest on the face of the record. The real difficulty with reference to this matter, however, is not so much in the statement of the principle as in its application to the facts of a particular case. When does an error, cease to be mere error and become an error apparent on the face of the record? Learned Counsel on either side were unable to suggest any clear-cut rule by which the boundary between the two classes of errors could be demarcated. Mr. Pathak for the first respondent contended on the strength of certain observations of Chagla, CJ in - 'Batuk K Vyas v. Surat Borough Municipality reported in ILR 1953 Bom 191, that no error could be said to be apparent on the face of the record if it was not self-evident and if it required an examination or argument to establish it. This test might afford a satisfactory basis for decision in the majority of cases. But there must be cases in which even this test might break down, because judicial opinions also differ, and an error that might be considered by one Judge as self-evident might not be so considered by another. The fact is that what is an error apparent on the face of the record cannot be defined precisely or exhaustively, there being an element of indefiniteness inherent in its very nature, and it must be left to be determined judicially on the facts of each case. Therefore, it can safely be held that the petitioners have not made out any case within the meaning of Article 137 read with Order XL of the Supreme Court Rules and Order 47 Rule 1 CPC for reviewing the judgment in Sarla Mudgal case. The petition is dismissed as devoid of merit and bereft of any substance."*
>
> *(emphasis added)*

10. माननीय उच्चतम न्यायालय द्वारा न्यायिक दृष्टांत पुनरावलोकन याचिका संख्या 238/2003 उनवान *Kerala State Electricity Board vs Hitech Electrothermics & Hydropower* में दिनांक 10.08.2005 को दिये गये निर्णय में सिविल प्रक्रिया संहिता—1908 के आदेश—47 नियम—01 के प्रावधान के क्षेत्र एवं उद्देश्य सिद्धांत विस्तृत व्याख्या की है। जिसके प्रासंगिक पैरा का उद्धरण इस प्रकार हैः—

> *10. ....In a review petition it is not open to this Court to reappreciate the evidence and reach a different conclusion, even if that is possible. Learned counsel for the Board at best sought to impress us that the correspondence exchanged between the parties did not support the conclusion reached by this Court. We are afraid such a submission cannot be permitted to be advanced in a review petition. The appreciation of evidence on record is fully within the domain of the appellate court. If on appreciation of the evidence produced, the court records a finding of fact and reaches a conclusion, that conclusion cannot be assailed in a review petition unless it is shown that there is an error apparent on the face of the record or for some reason akin thereto. It has not been contended before us that there is any error apparent on the face of the record. To permit the review petitioner to argue on a question of appreciation of evidence would amount to converting a review petition into an appeal in disguise."*
>
> *(emphasis added)*

11. माननीय उच्चतम न्यायालय द्वारा न्यायिक दृष्टांत पुनरावलोकन याचिका संख्या 5970/2006 उनवान *Jain Studios Limited vs Shin Satellite Public Co. Ltd* में दिनांक 11.07.2006 को दिये गये निर्णय में सिविल प्रक्रिया संहिता—1908 के आदेश—47 नियम—01 के प्रावधान के क्षेत्र एवं उद्देश्य सिद्धांत विस्तृत व्याख्या की है। जिसके प्रासंगिक पैरा का उद्धरण इस प्रकार हैः—

> *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.*
>
> *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.*

12. माननीय उच्चतम न्यायालय द्वारा उनवान *Aribam Tuleshwar Sharma vs Aribam Pishak Sharma* में दिनांक 25.01.1979 को दिये गये निर्णय में सिविल प्रक्रिया संहिता—1908 के आदेश—47 नियम—01 के प्रावधान के क्षेत्र एवं उद्देश्य सिद्धांत विस्तृत व्याख्या की है। जिसके प्रासंगिक पैरा का उद्धरण इस प्रकार हैः—

> *It is true as observed by this Court in Sheodev Singh and Ors. v. State of Punjab and Ors. AIR 1963 SC 1909 there is nothing in Article 226 of the Constitutence to preclude a High Court from exercising the power of review which inheram in every Court of plenary jurisdiction to prevent miscarriage of justice or to correct grave and pulpable errors committed by it. But, there are definitive limits to the exercise of 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 digilence 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.

13. माननीय उच्चतम न्यायालय द्वारा सिविल अपील संख्या 3601/2020 उनवान *Shri Ram Sahu (Dead) Through Lrs vs Vinod Kumar Rawat* में दिनांक 03.11.2020 को दिये गये निर्णय में सिविल प्रक्रिया संहिता—1908 के आदेश—47 नियम—01 के प्रावधान के क्षेत्र एवं उद्देश्य सिद्धांत विस्तृत व्याख्या की है। जिसके प्रासंगिक पैरा का उद्धरण इस प्रकार हैः—

9. To appreciate the scope of review, it would be proper for this Court to discuss the object and ambit of Section 114 CPC as the same is a substantive provision for review when a person considering himself aggrieved either by a decree or by an order of Court from which appeal is allowed but no appeal is preferred or where there is no provision for appeal against an order and decree, may apply for review of the decree or order as the case may be in the Court, which may order or pass the decree. From the bare reading of Section 114 CPC, it appears that the said substantive power of review under Section 114 CPC has not laid down any condition as the condition precedent in exercise of power of review nor the said Section imposed any prohibition on the Court for exercising its power to review its decision. However, an order can be reviewed by a Court only on the prescribed grounds mentioned in Order 47 Rule 1 CPC, which has been elaborately discussed hereinabove. An application for review is more restricted than that of an appeal and the Court of review has limited jurisdiction as to the definite limit mentioned in Order 47 Rule 1 CPC itself. The powers of review cannot be exercised as an inherent power nor can an appellate power can be exercised in the guise of power of review.

Jurisdiction

14. माननीय उच्चतम न्यायालय द्वारा न्यायिक दृष्टांत *AIR2003SC2095* उनवान *Rajender Kumar And Ors. vs Rambhai* में दिनांक 18.04.2002 को दिये गये निर्णय में सिविल प्रक्रिया संहिता—1908 के आदेश—47 नियम—01 के प्रावधान के क्षेत्राधिकार की विस्तृत विवेचना की है। जिसके प्रासंगिक पैरा का उद्धरण इस प्रकार हैः—

56. It follows, therefore, that the power of review can be 4. On perusal of the order under challenge it is clear that the High Court without considering the question whether the judgment/ order sought to be reviewed suffered from any error, entered upon the exercise of re-appreciating the evidence and on such re-appreciation of evidence re-determined the compensation by reducing the amount to the extent noted earlier. 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 not 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.

15. माननीय उच्चतम न्यायालय द्वारा सिविल अपील 4584/2009 उनवान *Inderchand Jain (D) Th.Lrs vs Motilal* में दिनांक 21.07.2009 को दिये गये निर्णय में सिविल प्रक्रिया संहिता—1908 के आदेश—47 नियम—01 के प्रावधान के क्षेत्राधिकार की विस्तृत विवेचना की है। जिसके प्रासंगिक पैरा का उद्धरण इस प्रकार हैः—

> *An application for review would lie inter alia when the order suffers from an error apparent on the face of the record and permitting the same to continue would lead to failure of justice. In Rajendra Kumar v. Rambai [AIR 2003 SC 2095], this Court held :*
>
> *"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."*
> *The power of review can also be exercised by the court in the event discovery of new and important matter or evidence takes place which despite exercise of due diligence was not within the knowledge of the applicant or could not be produced by him at the time when the order was made. An application for review would also lie if the order has been passed on account of some mistake. Furthermore, an application for review shall also lie for any other sufficient reason.*
>
> *10. It is beyond any doubt or dispute that the review court does not sit in appeal over its own order. A re-hearing of the matter is impermissible in law. It constitutes an exception to the general rule that once a judgment is signed or pronounced, it should not be altered. It is also trite that exercise of inherent jurisdiction is not invoked for reviewing any order.*

16. माननीय उच्चतम न्यायालय द्वारा न्यायिक दृष्टांत पुनरावलोकन याचिका संख्या 5970/2006 उनवान *Jain Studios Limited vs Shin Satellite Public Co. Ltd* में दिनांक 11.07.2006 को दिये गये निर्णय में सिविल प्रक्रिया संहिता—1908 के आदेश—47 नियम—01 के प्रावधान के क्षेत्राधिकार की विस्तृत विवेचना की है। जिसके प्रासंगिक पैरा का उद्धरण इस प्रकार हैः—

> *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.*
>
> *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 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.*

17. माननीय उडीसा उच्च न्यायालय द्वारा न्यायिक दृष्टांत AIR1975ORI64 उनवान *Union Of India (Uoi) vs Sudhir Kumar Ray* में दिनांक 11.02.1974 को दिये गये निर्णय

में सिविल प्रक्रिया संहिता—1908 के आदेश—47 नियम—01 के प्रावधान के क्षेत्राधिकार की विस्तृत विवेचना की है। जिसके प्रासंगिक पैरा का उद्धरण इस प्रकार हैः—

> *Failure to argue a point is not an envisagable ground for review under Order 47, Rule 1, C. P. C. according to which in only three cases mere review is permitted. Those cases are where new material has been over-looked, by excusable misfortune, mistake or there is an error apparent on the face of the record and where there is "any other sufficient reason". The present case is not covered by the first two classes of cases. No new material has been over-looked by excusable misfortune or mistake; it is a case of an existing material being over-looked by the counsel and not a case of excusable misfortune nor a mistake. There is also no error apparent on the face of the record.*

18. माननीय उच्चतम न्यायालय द्वारा न्यायिक दृष्टांत *1993 Supp (4) SCC 595,* उनवान *S. Nagraj and others v. State of Karnataka and another* में दिनांक 26.08.1993 को दिये गये निर्णय में सिविल प्रक्रिया संहिता—1908 के आदेश—47 नियम—01 के प्रावधान के क्षेत्राधिकार की विस्तृत विवेचना की है। जिसके प्रासंगिक पैरा का उद्धरण इस प्रकार हैः—

> *18. 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. But the root from which the power flows is the anxiety to avoid injustice. It is either statutory or inherent. The latter is available where the mistake is of the Court. In Administrative Law the scope is still wider. Technicalities apart if the Court is satisfied of the injustice then it is its constitutional and legal obligation to set it right by recalling its order.*

19. माननीय उच्चतम न्यायालय द्वारा न्यायिक दृष्टांत *1993 Supp (4) SCC 595* उनवान *Patel Narshi Thakershi And Ors. vs Shri Pradyumansinghji Arjunsinghji* में दिनांक 02.03.1970 को दिये गये निर्णय में सिविल प्रक्रिया संहिता—1908 के आदेश—47 नियम—01 के प्रावधान के क्षेत्राधिकार की विस्तृत विवेचना की है। जिसके प्रासंगिक पैरा का उद्धरण इस प्रकार हैः—

> *It is well settled that the power to review is not an inherent power. It must be conferred by law either specifically or by necessary implication. No provision in the Act was brought to our notice from which it could be gathered that the Government had power to review its own order. If the Government had no power to review its own order, it is obvious that its delegate could not have reviewed its order.*

20. माननीय उच्चतम न्यायालय द्वारा सिविल अपील संख्या 3601/2020 उनवान *Shri Ram Sahu (Dead) Through Lrs vs Vinod Kumar Rawat* में दिनांक 03.11.2020 को दिये गये निर्णय में सिविल प्रक्रिया संहिता—1908 के आदेश—47 नियम—01 के प्रावधान

के सिद्धांत विस्तृत व्याख्या की है। जिसके प्रासंगिक पैरा का उद्धरण इस प्रकार है:—

> *35. The principles which can be culled out from the abovenoted judgments are:*
>
> *(i) The power of the Tribunal to review its order/decision under Section 22(3)(f) of the Act is akin/analogous to the power of a civil court under Section 114 read with Order 47 Rule 1 CPC.*
> *(ii) The Tribunal can review its decision on either of the grounds enumerated in Order 47 Rule 1 and not otherwise.*
> *(iii) The expression "any other sufficient reason" appearing in Order 47 Rule 1 has to be interpreted in the light of other specified grounds.*
> *(iv) An error which is not self-evident and which can be discovered by a long process of reasoning, cannot be treated as an error apparent on the face of record justifying exercise of power under Section 22(3)(f).*
> *(v) An erroneous order/decision cannot be corrected in the guise of exercise of power of review.*
> *(vi) A decision/order cannot be reviewed under Section 22(3)(f) on the basis of subsequent decision/judgment of a coordinate or larger Bench of the tribunal or of a superior court.*
> *(vii) While considering an application for review, the tribunal must confine its adjudication with reference to material which was available at the time of initial decision. The happening of some subsequent event or development cannot be taken note of for declaring the initial order/decision as vitiated by an error apparent.*
> *(viii) Mere discovery of new or important matter or evidence is not sufficient ground for review. The party seeking review has also to show that such 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/tribunal earlier."*

21. माननीय उच्चतम न्यायालय द्वारा सिविल अपील संख्या 1694/2019 उनवान *Perry Kansagra vs Smriti Madan Kansagra* में दिनांक 15.02.2019 को दिये गये निर्णय में सिविल प्रक्रिया संहिता—1908 के आदेश—47 नियम—01 के प्रावधान के सिद्धांत विस्तृत व्याख्या की है। जिसके प्रासंगिक पैरा का उद्धरण इस प्रकार है:—

> *33. The High Court had rightly noticed the review jurisdiction of the court, which is as under:*
>
> *"The law on the subject—exercise of power of review, as propounded by the Apex Court and various other High Courts may be summarised as hereunder:*
> *(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 (2000) 6 SCC 224 Perry Kansagra vs. Smriti Madan Kansagra 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." In our opinion, the principles culled out by it, in the facts of this case, have wrongly been applied." In Ajit Kumar Rath3, it was observed:-*

"29. In review proceedings, the Tribunal deviated from the principles laid down above which, we must say, is wholly unjustified and exhibits a tendency to rewrite a judgment by which the controversy had been finally decided. This, we are constrained to say, is not the scope of review under Section 22(3)(f) of the Administrative Tribunals Act, 1985……"
Similarly, in Parsion Devi4 the principles were summarized as under:
"9. Under Order 47 Rule 1 CPC a judgment may be open to review inter alia if there is a mistake or an error apparent on the face of the record. An error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on Perry Kansagra vs. Smriti Madan Kansagra the face of the record justifying the court to exercise its power of review under Order 47 Rule 1 CPC. In exercise of the jurisdiction under Order 47 Rule 1 CPC it is not permissible for an erroneous decision to be "reheard and corrected". A review petition, it must be remembered has a limited purpose and cannot be allowed to be "an appeal in disguise".

Discovery of New & Important Matter or Evidance

22. माननीय उच्चतम न्यायालय द्वारा सिविल अपील संख्या 1694/2006 उनवान *State Of West Bengal & Ors vs Kamal Sengupta* में दिनांक 16.06.2008 को दिये गये निर्णय में सिविल प्रक्रिया संहिता—1908 के आदेश—47 नियम—01 के प्रावधान में निहित नए साक्ष्य एवं महत्वपूर्ण प्रकरण का उत्पन्न होने के संबंध में प्रथम बिन्दु की विस्तृत विवेचना की है। जिसके प्रासंगिक पैरा का उद्धरण इस प्रकार हैः—

14. 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 justiciae. 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.

15. The term `mistake or error apparent' by its very connotation signifies an error which is evident per se from the record of the case and does not require detailed examination, scrutiny and elucidation either of the facts or the legal position. If an error is not self-evident and detection thereof requires long debate and process of reasoning, it cannot be treated as an error apparent on the face of the record for the purpose of Order 47 Rule 1 CPC or Section 22(3)(f) of the Act. To put it differently an order or decision or judgment cannot be corrected merely because it is erroneous in law or on the ground that a different view could have been taken by the Court/Tribunal on a point of fact or law. In any case, while exercising the power of review, the concerned Court/Tribunal cannot sit in appeal over its judgment/decision.

Mistake or Error Apparent on the Face of Record

23. माननीय उच्चतम न्यायालय द्वारा सिविल अपील संख्या 5217/2010 उनवान *Asharafi Devi (D) Thr. Lrs. vs State Of U.P* [illegible] 01.02.2019 को दिये गये निर्णय में सिविल प्रक्रिया संहिता—1908 के [illegible] नियम—01 के प्रावधान में निहित प्रकरण में रिकॉर्ड एवं प्रक्रिया की स्पष्टतः त्रुटि/गलती के होने के संबंध में द्वितीय बिन्दु की विस्तृत विवेचना की है। जिसके प्रासंगिक पैरा का उद्धरण इस प्रकार हैः—

21 It is a settled law that every [illegible] 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.

24. माननीय उच्चतम न्यायालय द्वारा *AIR1960SC137* उनवान *Satyanarayan Laxminarayan Hegde vs Millikarjun Bhavanappa Tirumale* में दिनांक 25.09.1959 को दिये गये निर्णय में सिविल प्रक्रिया संहिता—1908 के आदेश—47 नियम—01 के प्रावधान में निहित प्रकरण में रिकॉर्ड एवं प्रक्रिया की स्पष्टतः त्रुटि व गलती के होने के संबंध में द्वितीय बिन्दु की विस्तृत विवेचना की है। जिसके प्रासंगिक पैरा का उद्धरण इस प्रकार हैः—

An error which has to be established by a long drawn process of reasoning on points where there may conceivably be two opinions can hardly be said to be an error apparent on the face of the record. As the above discussion of the rival contentions show the alleged error in the present case is far from self evident and if it can be established, it has to be established by lengthy and complicated arguments. We do not think such an error can be cured by a writ of certiorari according to the rule governing the powers of the superior court to issue such a writ.

25. माननीय उच्चतम न्यायालय द्वारा *1955 AIR 233* उनवान *Hari Vishnu Kamath vs Syed Ahmad Ishaque* में दिनांक 09.12.1954 को दिये गये निर्णय में सिविल प्रक्रिया संहिता—1908 के आदेश—47 नियम—01 के प्रावधान में निहित प्रकरण में रिकॉर्ड एवं प्रक्रिया की स्पष्टतः त्रुटि व गलती के होने के संबंध में द्वितीय बिन्दु की विस्तृत विवेचना की है। जिसके प्रासंगिक पैरा का उद्धरण इस प्रकार हैः—

It may therefore be taken as settled that a writ of certiorari could be issued to correct an error of law. But it is essential that it should be something more than a mere error; it must be one which must be manifest on the face of the record. The real difficulty with reference to this matter, however, is not so much in the statement of the principle as in its application to the facts of a particular case. When does an error cease to be mere error, and become an error apparent on the face of the record? Learned Counsel on either side were unable to suggest any clear-cut rule by which, the boundary between the two classes of errors could be demarcated. Mr. Pathak for the first respondent contended on the strength of certain observations of Chagla, C. J. in Batuk K. Vyas v. Surat Municipality that no error could be said to be apparent on the face of the record if it was not self-evident, and if it required an examination or argument to establish it. This test might afford a satisfactory basis for decision in the majority of cases. But there must be cases in which even this test might break down, because judicial opinions also differ, and an error that might be considered by one Judge as self-evident might not be so considered by another. The fact is that what is an error apparent on the face of the record cannot be defined precisely or exhaustively, there being an element of indefiniteness inherent in its very nature, and it must be left to be determined judicially on the facts of each case.

26. माननीय उच्चतम न्यायालय द्वारा न्यायिक दृष्टांत *AIRONLINE 1997 SC 3* उनवान *Parsion Devi & Ors vs Sumitri Devi* में दिनांक 14.10.1997 को दिये गये निर्णय में सिविल प्रक्रिया संहिता—1908 के आदेश—47 नियम—01 के प्रावधान में निहित प्रकरण में रिकॉर्ड एवं प्रक्रिया की स्पष्टतः त्रुटि व गलती के होने के संबंध में द्वितीय बिन्दु की विस्तृत विवेचना की है। जिसके प्रासंगिक पैरा का उद्धरण इस प्रकार हैः—

Under Order 47 Rule 1 C.P.C. a judgment may be open to review inter alia if there is a mistake or 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 review under Order 47 Rule 1 CPC. In exercise of the jurisdiction under Order 47 Rule 1 CPC it is not permissible for an erroneous decision to be "reheard and corrected". A review petition, it must be remembered has limited purpose and cannot be allowed to be "an appeal in disguise."

27. माननीय उच्चतम न्यायालय द्वारा न्यायिक दृष्टांत *CC 4339/2017* उनवान *Sasi vs Aravindakshan Nair* में दिनांक 03.03.2017 को दिये गये निर्णय में सिविल प्रक्रिया संहिता—1908 के आदेश—47 नियम—01 के प्रावधान में निहित प्रकरण में रिकॉर्ड एवं प्रक्रिया की स्पष्टतः त्रुटि व गलती के होने के संबंध में द्वितीय बिन्दु की विस्तृत विवेचना की है। जिसके प्रासंगिक पैरा का उद्धरण इस प्रकार हैः—

6. The grounds enumerated therein are specific. The principles for interference in exercise of review jurisdiction are well settled. The Court passing the order is entitled to review the order, if any of the grounds specified in the aforesaid provision are satisfied.

7. In Thungabhadra Industries Ltd. v. Govt. of A.P.1, the Court while dealing with the scope of review had opined:-

> *"What, however, we are now concerned with is whether the statement in the order of September 1959 that the case did not involve any substan- tial question of law is an 'error apparent on the face of the record'). 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 or- der 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 exposi- tion, 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."*

8. In Parsion Devi v. Sumitri Devi2, the Court after referring to Thungabhadra Industries Ltd. (supra), Meera Bhanja v. Nirmala Kumari Choudhury3 and Aribam Tuleshwar Sharma v. Aribam Pishak Sharma4, held thus:-

> *"Under Order 47 Rule 1 CPC a judgment may be open to review inter alia if there is a mistake or an error apparent on the face of the record. An error which is not self-evident and has to be de- tected by a process of reasoning, can hardly be said to be an error apparent on the face of the record justifying the court to exercise its power of review under Order 47 Rule 1 CPC. In exercise of the jurisdiction under Order 47 Rule 1 CPC it is not permissible for an erroneous decision to be "reheard and corrected". A review petition, it must be remembered has a limited purpose and cannot be allowed to be "an appeal in disguise"".*

9. The aforesaid authorities clearly spell out the nature, scope and ambit of power to be exercised. The error has to be self-evident and is not to be found out by a process of reasoning. We have adverted to the aforesaid aspects only to highlight the nature of review proceedings.

11. An application for review, regard being had to its limited scope, has to be disposed of as expeditiously as possible.

Though we do not intend to fix any time limit, it has to be the duty of the Registry of every High Court to place the matter before the concerned Judge/Bench so that the review application can be dealt with in quite promptitude. If a notice is required to be issued to the opposite party in the application for review, a specific date can be given on which day the matter can be dealt with in accordance with law. A reasonable period can be spent for disposal of the review, but definitely not four years. We are compelled to say so as the learned counsel for the petitioner has submitted that there is a delay of 1700 days in preferring the special leave petition against the principal order as he was prosecuting the remedy of review before the High Court. The situation is not acceptable.

12. We are obliged to observe certain aspects. An endeavour has to be made by the High Courts to dispose of the applications for review with expediency. It is the duty and obligation of a litigant to file a review and not to keep it defective as if a defective petition can be allowed to remain on life support, as per his desire. It is the obligation of the counsel filing an application for review to cure or remove the defects at the earliest. The prescription of limitation for filing an application for review has its own sanctity. The Registry of the High Courts has a duty to place the matter before the Judge/Bench with defects so that there can be pre-emptory orders for removal of defects. An adroit method cannot be adopted to file an application for review and wait till its rejection and, thereafter, challenge the orders in the special leave petition and take specious and mercurial plea asserting that delay had occurred because the petitioner was prosecuting the application for review. There may be absence of diligence on the part of the litigant, but the Registry of the High Courts is required to be vigilant. Procrastination of litigation in this manner is nothing but a subterfuge taken recourse to in a manner that can epitomize "cleverness" in its conventional sense. We say no more in this regard.

28. माननीय उच्चतम न्यायालय द्वारा न्यायिक दृष्टांत *1999 AIR SCW 4212* उनवान *Ajit Kumar Rath vs State Of Orissa* में दिनांक 02.11.1999 को दिये गये निर्णय में सिविल प्रक्रिया संहिता—1908 के आदेश—47 नियम—01 के प्रावधान में निहित प्रकरण में रिकॉर्ड एवं प्रक्रिया की स्पष्टतः त्रुटि व गलती के होने के संबंध में द्वितीय बिन्दु की विस्तृत विवेचना की है। जिसके प्रासंगिक पैरा का उद्धरण इस प्रकार हैः—

The provisions extracted above indicate that the power of review available to the Tribunal is the same as has been given to a court under Section 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.

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.

29. माननीय उच्चतम न्यायालय द्वारा न्यायिक दृष्टांत *2000 (2) ALD (CRI) 686* उनवान *Lily Thomas, Etc. Etc. vs Union Of India* में दिनांक 05.04.2000 को दिये गये निर्णय में सिविल प्रक्रिया संहिता—1908 के आदेश—47 नियम—01 के प्रावधान में निहित प्रकरण में रिकॉर्ड एवं प्रक्रिया की स्पष्टतः त्रुटि व गलती के होने के संबंध में द्वितीय बिन्दु की विस्तृत विवेचना की है। जिसके प्रासंगिक पैरा का उद्धरण इस प्रकार हैः—

56. It follows, therefore, that the power 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. Once a review petition is dismissed no further petition of review can be entertained. The rule of law of following the practice of the binding nature of the larger Benches and not taking different views by the Benches of coordinated jurisdiction of equal strength has to be followed and practised. However, this Court in exercise of its powers under Article 136 or Article 32 of the Constitution and upon satisfaction that the earlier judgments have resulted in deprivation of fundamental rights of a citizen or rights created under any other statute, can take a different view notwithstanding the earlier judgment.

30. माननीय उच्चतम न्यायालय द्वारा सिविल अपील संख्या 1167—1170/2023 उनवान *S. Murali Sundaram vs Jothibai Kannan* में दिनांक 24.02.2023 को दिये गये निर्णय में सिविल प्रक्रिया संहिता—1908 के आदेश—47 नियम—01 के प्रावधान में निहित प्रकरण में रिकॉर्ड एवं प्रक्रिया की स्पष्टतः त्रुटि व गलती के होने के संबंध में द्वितीय बिन्दु की विस्तृत विवेचना की है। जिसके प्रासंगिक पैरा का उद्धरण इस प्रकार हैः—

56. It follows, therefore, that the power 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. Once a review petition is dismissed no further petition of review can be entertained. The rule of law of following the practice of the binding nature of the larger Benches and not taking different views by the Benches of coordinated jurisdiction of equal strength has to be followed and practised. However, this Court in exercise of its powers under Article 136 or Article 32 of the Constitution and upon satisfaction that the earlier judgments have resulted in deprivation of fundamental rights of a citizen or rights created under any other statute, can take a different view notwithstanding the earlier judgment.

Any Other Sufficient Reason

31. माननीय बॉम्बे उच्च न्यायालय द्वारा न्यायिक दृष्टांत *(1922) 24 BOMLR 1238* उनवान *Chajju Ram vs Neki* में दिनांक 27.02.1922 को दिये गये निर्णय में सिविल प्रक्रिया संहिता—1908 के आदेश—47 नियम—01 के प्रावधान में निहित प्रकरण में पुनरावलोकन हेतु कोई अन्य पर्याप्त कारण के होने के संबंध में द्वितीय बिन्दु की विस्तृत विवेचना की है। जिसके प्रासंगिक पैरा का उद्धरण इस प्रकार हैः—

8. If their Lordships felt themselves at liberty to construe the language of Order XLVII of the Code of Civil Procedure, 1908, without reference to what had been said upon it, their task would not appear to be a difficult one. For it is obvious that the Code contemplates a procedure by way of review by the Court which has already given judgment as being different from that by way of appeal to a Court of Appeal. The three cases in which alone mere review is permitted are those

of new material overlooked by excusable misfortune, mistake or error apparent on the face of the record, or "any other sufficient reason." The first two alternatives do not apply in the present case, and the expression "sufficient," if this were all, would naturally be read as meaning sufficiency of a kind analogous to the two already specified, that is to say, to excusable failure to bring to the notice of the Court new and important matters, or error on the face of the record. But before adopting this restricted construction of the expression "sufficient," it is necessary to have in mind, in the first place, that the provision as to review was not introduced into the Code for the first time in 1908, but appears there as a modification of previous provision made in earlier legislation; and, in the second place, that the extent of the power of a Court in India to review its own decree under successive forms of legislative provision has been the subject of a good deal of judicial interpretation, not, however, in all cases harmonious. That the power given by the Indian Code is different from the very restricted power which exists in England appears plain from the decision in Charles Bright & Go. Limited v. Seller [1904] 1 K.B. 6 where the Court of Appeal discussed the history of the procedure in England and explained its limits.

32. माननीय बॉम्बे उच्च न्यायालय द्वारा न्यायिक दृष्टांत *(1922) 24 BOMLR 1238* उनवान *Chajju Ram vs Neki* में दिनांक 27.02.1922 को दिये गये निर्णय में सिविल प्रक्रिया संहिता—1908 के आदेश—47 नियम—01 के प्रावधान में निहित प्रकरण में पुनरावलोकन हेतु कोई अन्य पर्याप्त कारण के होने के संबंध में द्वितीय बिन्दु की विस्तृत विवेचना की है। जिसके प्रासंगिक पैरा का उद्धरण इस प्रकार हैः—

Before going into the merits of the case it is as well to bear in mind the scope of the application for review which has given rise to the present appeal. It is needless to emphasise that the scope of an application for review is much more restricted than that of an appeal. Under the provisions in the Travancore Code of Civil Procedure which is similar in terms to Order XLVII, rule I of our Code of Civil Procedure, 1908, the Court of review has only a limited jurisdiction circumscribed by the definitive limits fixed by the language used therein. It may allow a review on three specified, grounds, namely (i) 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 him at the time when the decree was. passed, (ii) mistake or error apparent on the face of the record and (iii) for any other sufficient reason. It has been held by the Judicial Committee that the words "any other sufficient reason" must mean "a reason sufficient on grounds, at least analogous to those specified in the rule." See Chhajju Ram v. Neki(1). This conclusion was reiterated by the Judicial Committee in Bisheshwar Pratap Sahi v. Parath Nath(2) and was adopted by our Federal Court in Hari Shankar Pal v. Anath Nath Mitter(3). Learned counsel appearing in support of this appeal recognises the aforesaid limitations and submits that his case comes within the ground of "mistake or error apparent on the face of the record" or some ground analogous thereto.

33. माननीय बॉम्बे उच्च न्यायालय द्वारा सिविल अपील 237—239/2005 उनवान *Board Of Control For Cricket, India & Anr vs Netaji Cricket Club* में दिनांक 10.01.2005 को दिये गये निर्णय में सिविल प्रक्रिया संहिता—1908 के आदेश—47 नियम—01 के प्रावधान में निहित प्रकरण में पुनरावलोकन हेतु कोई अन्य पर्याप्त कारण के होने के संबंध में द्वितीय बिन्दु की विस्तृत विवेचना की है। जिसके प्रासंगिक पैरा का उद्धरण इस प्रकार हैः—

Order 47, Rule 1 of the Code provides for filing an application for review. Such an application for review would be maintainable not only upon discovery of a new and important

piece of evidence or when there exists an error apparent on the face of the record but also if the same is necessitated on account of some mistake or for any other sufficient reason.

Thus, a mistake on the part of the court which would include a mistake in the nature of the undertaking may also call for a review of the order. An application for review would also be maintainable if there exists sufficient reason therefor. What would constitute sufficient reason would depend on the facts and circumstances of the case. The words 'sufficient reason' in Order 47, Rule 1 of the Code is wide enough to include a misconception of fact or law by a court or even an Advocate. An application for review may be necessitated by way of invoking the doctrine "actus curiae neminem gravabit".

Maintainable

34. माननीय उच्चतम न्यायालय द्वारा आपराधिक पुनरावलोकन याचिका संख्या 453/2012 *AIR 2004 UTR 30* उनवान *KAMLESH VERMA vs. MAYAWATI* में दिनांक 08.08.2013 को दिये गये निर्णय में सिविल प्रक्रिया संहिता—1908 के आदेश—47 नियम—01 के प्रावधान के अंतर्गत पुनरावलोकन किये जाने योग्य परिस्थितियों के बारे में विस्तृत विवेचना की है। जिसके प्रासंगिक पैरा का उद्धरण इस प्रकार हैः—

0.1 When the review will be maintainable:123

(i) Discovery of new and important matter or evidence which, after the exercise of due diligence, was not within knowledge of the petitioner or could not be produced by him;
(ii) Mistake or error apparent on the face of the record;
(iii) Any other sufficient reason.

The words "any other sufficient reason" have been interpreted in Chhajju Ram v. Neki (1921-22) 49 IA 144, (1922) 16 LW 37, AIR 1922 PC 112 and approved by this Court in Moran Mar Basselios Catholicos v. Most Rev. Mar Poulose Athanasius AIR 1954 SC 526, (1955) 1 SCR 520 to mean "a reason sufficient on grounds at least analogous to those specified in the rule". The same principles have been reiterated in Union of India v. Sandur Manganese & Iron Ores Ltd.

Not Maintainable

35. माननीय उच्चतम न्यायालय द्वारा आपराधिक पुनरावलोकन याचिका संख्या 453/2012 *AIR 2004 UTR 30* उनवान *KAMLESH VERMA vs. MAYAWATI* में दिनांक 08.08.2013 को दिये गये निर्णय में सिविल प्रक्रिया संहिता—1908 के आदेश—47 नियम—01 के प्रावधान के अंतर्गत पुनरावलोकन नहीं किये जाने योग्य परिस्थितियों के बारे में विस्तृत विवेचना की है। जिसके प्रासंगिक पैरा का उद्धरण इस प्रकार हैः—

20.2 When the review will not be maintainable:171

(i) A repetition of old and overruled argument is not enough to reopen concluded adjudications.
(ii) Minor mistakes of inconsequential import.
(iii) Review proceedings cannot be equated with the original hearing of the case.
(iv) Review is not maintainable unless the material error, manifest on the face of the order, undermines its soundness or results in miscarriage of justice.
(v) A review is by no means a [illegible] disguise whereby an erroneous decision is reheard and corrected but only for patent error.
(vi) The mere possibility of two views on the subject cannot be a ground for review.
(vii) The error apparent on the face of the record should not be an error which has to be fished out and searched.

(viii) The appreciation of evidence on record is fully within the domain of the appellate court, it cannot be permitted to be advanced in the review petition.
(ix) Review is not maintainable when the same relief sought at the time of arguing the main matter had been negatived.

Role Of Court

36. माननीय बॉम्बे उच्च न्यायालय द्वारा न्यायिक दृष्टांत *1980 AIR 674* उनवान *Northern India Caterers (India) Ltd vs Lt. Governor Of Delhi* में दिनांक 21.12.1979 को दिये गये निर्णय में सिविल प्रक्रिया संहिता—1908 के आदेश—47 नियम—01 के प्रावधान के तहत न्यायालय की भूमिका के संबंध में विस्तृत विवेचना की है। जिसके प्रासंगिक पैरा का उद्धरण इस प्रकार हैः—

> ***A plea for review, unless the first judicial view is manifestly distorted, is like asking for the moon.***

37. उपरोक्त विधिक प्रावधान एवं न्यायिक दृष्टांतों के संदर्भ में सिविल प्रक्रिया संहिता—1908 के आदेश—47 नियम—01 के अवलोकन से ज्ञात होता है कि किसी प्रकरण का न्यायालय को पुनरावलोकन करने हेतु सिविल प्रक्रिया संहिता—1908 की धारा—114 के तहत कोई सीमा निर्धारित नहीं की गई है। परंतु सिविल प्रक्रिया संहिता—1908 के आदेश—47 नियम—01 के तहत किसी प्रकरण का न्यायालय को पुनरावलोकन करने हेतु सीमा निर्धारित की गई है। उक्त सीमाएं निम्न प्रकार हैंः—
    - किसी प्रकरण में निर्णय के पश्चात् महत्वपूर्ण साक्ष्य या अन्य कोई तथ्य का उपस्थित होना।
    - किसी प्रकरण में निर्णय में रिकार्ड या प्रक्रिया की त्रुटि होना।
    - अन्य कोई महत्वपूर्ण त्रुटि होना।

38. इस प्रकार सिविल प्रक्रिया संहिता—1908 के आदेश—47 नियम—01 के तहत किसी प्रकरण का न्यायालय को पुनरावलोकन करने हेतु प्रथम बिन्दु के तहत किसी प्रकरण में निर्णय के पश्चात् कोई महत्वपूर्ण साक्ष्य या अन्य कोई तथ्य का उपस्थित होना आवश्यक है। उपरोक्त विधिक प्रावधान एवं न्यायिक दृष्टांतों के संदर्भ में सिविल प्रक्रिया संहिता—1908 के आदेश—47 नियम—01 के अवलोकन से ज्ञात होता है कि किसी प्रकरण में निर्णय के पश्चात् कोई महत्वपूर्ण साक्ष्य या अन्य कोई तथ्य का उपस्थित होना ही पर्याप्त नहीं है। अपितु पुनरावलोकन हेतु याची को यह साबित करना अनिवार्य है कि प्रकरण के निर्णय के समय उक्त महत्वपूर्ण साक्ष्य या अन्य कोई महत्वपूर्ण तथ्य न्यायालय के समक्ष प्रस्तुत करने में पर्याप्त कारणों की वजह से असमर्थता या तत्समय उक्त महत्वपूर्ण साक्ष्य या अन्य कोई महत्वपूर्ण तथ्यों तक पहुंच या जानकारी याची को उपलब्ध नहीं थी। यहां उल्लेखनीय है कि किसी प्रकरण में निर्णय के पश्चात् कोई महत्वपूर्ण साक्ष्य या अन्य कोई तथ्य का उपस्थित होना ही पर्याप्त नहीं है। अपितु किसी प्रकरण में निर्णय के पश्चात् कोई महत्वपूर्ण साक्ष्य या अन्य कोई तथ्य का उक्त निर्णय को परिवर्तित, प्रभावित करने की क्षमता रखने वाला तथ्य/साक्ष्य होना भी आवश्यक है।

39. इस प्रकार सिविल प्रक्रिया संहिता—1908 के आदेश—47 नियम—01 के तहत किसी प्रकरण का न्यायालय को पुनरावलोकन करने हेतु द्वितीय बिन्दु के तहत किसी प्रकरण में निर्णय में रिकार्ड या प्रक्रिया की त्रुटि होना आवश्यक है। उपरोक्त विधिक प्रावधान एवं न्यायिक दृष्टांतों के संदर्भ में सिविल प्रक्रिया संहिता—1908 के आदेश—47 नियम—01 के अवलोकन से ज्ञात होता है कि किसी प्रकरण में निर्णय में रिकार्ड या प्रक्रिया की त्रुटि प्रकरण के रिकार्ड से स्पष्ट सीमित हो। किसी प्रकरण में पत्रावली के तथ्यों के गहन अवलोकन, विश्लेषण तथा तार्किक मनन के पश्चात् किसी त्रुटि को खोजना या त्रुटि तक पहुंचना पुनरावलोकन याचिका में अनुमत नहीं

है। यहां उल्लेखनीय है कि किसी प्रकरण में निर्णय में रिकार्ड या प्रक्रिया की त्रुटि होना प्रकरण के रिकार्ड के प्रथमदृष्टया अवलोकन से स्पष्ट होना है।

40. इस प्रकार सिविल प्रक्रिया संहिता—1908 के आदेश—47 नियम—01 के तहत किसी प्रकरण का न्यायालय को पुनरावलोकन करने हेतु तृतीय बिन्दु के तहत किसी प्रकरण में निर्णय में अन्य कोई महत्वपूर्ण व पर्याप्त कारण होना आवश्यक है। उपरोक्त विधिक प्रावधान एवं न्यायिक दृष्टांतों के संदर्भ में सिविल प्रक्रिया संहिता—1908 के आदेश—47 नियम—01 के अवलोकन से ज्ञात होता है कि किसी प्रकरण में निर्णय में अन्य कोई महत्वपूर्ण व पर्याप्त कारण होना प्रकरण के रिकार्ड पर स्पष्ट साबित हो। यहां उल्लेखनीय है कि किसी प्रकरण में निर्णय में अन्य कोई महत्वपूर्ण व पर्याप्त कारण की कोई स्पष्ट परिभाषा नहीं है। परन्तु निर्णय में अन्य कोई महत्वपूर्ण व पर्याप्त कारण का क्षेत्र सिविल प्रक्रिया संहिता—1908 के आदेश—47 नियम—01 के प्रावधान में उल्लेखित प्रथम दो बिन्दुओं से सुसंगत होना चाहिए।

41. प्रकरण में सिविल प्रक्रिया संहिता—1908 के आदेश—47 नियम—01 के प्रावधानों की व्याख्या व विधि की स्थिति को जानने के पश्चात् अब प्रकरण में उक्त कानूनी प्रावधानों न्यायिक दृष्टांतों के संदर्भ में सिविल प्रक्रिया संहिता—1908 के तहत प्रस्तुत प्रार्थना—पत्र उक्त प्रावधान व न्यायिक दृष्टांतों द्वारा प्रतिपादित परीक्षण पर जांच किया जाना आवश्यक है। प्रकरण में प्रार्थी का कथन है कि पत्रावली प्रकरण में तहसीलदार गुडामालानी की मौका रिपोर्ट पर आदेश एवं अप्रार्थी के जवाब में लम्बित थी। परन्तु न्यायालय द्वारा प्रकरण में तहसीलदार गुडामालानी की मौका रिपोर्ट पर आदेश किए बिना एवं अप्रार्थी के जवाब बिना लिए प्रकरण का अंतिम निर्णय कर दिया गया। इस प्रकार पत्रावली पर रिकार्ड या प्रक्रिया की त्रुटि प्रथम दृष्टया स्पष्ट है। अतः पत्रावली का पुनरावलोकन स्वीकार किया जाकर पत्रावली का गुणावगुण पर निर्णय किया जावे।

42. प्रकरण में पत्रावली के अवलोकन से ज्ञात होता है कि पत्रावली प्रकरण में तहसीलदार गुडामालानी की मौका रिपोर्ट पर आदेश एवं अप्रार्थी के जवाब में लम्बित थी। परन्तु न्यायालय द्वारा प्रकरण में तहसीलदार गुडामालानी की मौका रिपोर्ट पर आदेश किए बिना एवं अप्रार्थी के जवाब बिना लिए प्रकरण का अंतिम निर्णय कर दिया गया। इस प्रकार पत्रावली पर रिकार्ड या प्रक्रिया की त्रुटि प्रथम दृष्टया स्पष्ट है। अतः प्रकरण का पुनरावलोकन किया जाना उचित प्रतीत होता है। अतः

आदेश है कि

वादी द्वारा उक्त सिविल प्रक्रिया संहिता—1908 के आदेश—47 नियम—01 के तहत प्रस्तुत प्रार्थना—पत्र स्वीकार किया जाता है एवं प्रकरण को पुनः सुनवाई पर लिया जाता है।

यह निर्णय मेरे द्वारा आज दिनांक 23.05.2024 को लिखवाया जाकर हस्ताक्षर एवं मोहर युक्त जारी किया जाकर सरे इजलास सुनाया गया।

Signature Not Verified

Digitally signed by Keshav Kumar Meena
Date: 2025.06.13 19:10:10 IST
Reason: SelfAttested

(केशव कुमार मीना आर.ए.एस)
सहायक कलक्टर
गुढ़ामालानी—बाड़मेर