

CM Nos.3604 to 3608-C-2025 in/and  
RA-RS-17-2025 (O&M) in  
RSA-3428-1985

[1]

2025.PHHC.047928



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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH**

CM Nos.3604 to 3608-C-2025 in/and  
RA-RS-17-2025 (O&M) in  
RSA-3428-1985  
Date of decision: 07.04.2025

Lekh Ram and others

...Appellants

Versus

Ami Lal (deceased) through his LRs and another

...Respondents

**CORAM: HON'BLE MR. JUSTICE VIKAS BAHL**

Present: Mr. P.R. Yadav, Advocate for the review applicant.

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**VIKAS BAHL, J. (ORAL)**

**CM-3605-C-2025**

1. This is an application filed for condonation of delay of 103 days in refiling the review application.
2. For the reasons stated in the application which is duly supported by an affidavit, the present application is allowed and delay of 103 days in refiling the review application is condoned.

**CM-3604-C-2025,**  
**CM-3606-C-2025 to CM-3608-C-2025 in/and**  
**RA-RS-17-2025 in RSA-3428-1985**

1. The present order would dispose of the review application bearing No.RA-RS-17-2025 filed under Order 47 Rule 1 CPC for review of the judgment dated 19.07.2024 (Annexure A-1) passed in RSA-3428-1985, application bearing No.CM-3604-C-2025 filed under Section 5 of the



Limitation Act for condonation of delay of 67 days in filing the review application, application bearing No.CM-3607-C-2025 filed under Order 1 Rule 10 CPC read with section 151 CPC for impleadment of the applicant namely Shaan Lohia as well as application bearing No.CM-3608-C-2025 filed under Order 41 Rule 27 CPC for placing on record Annexures A-15 to A-18 by way of additional evidence.

2. Learned counsel for the review applicant has submitted that the grandfather of the applicant had purchased 5 biswa out of the suit property measuring 4 bighas 2 biswa from the legal heir of respondent No.1 namely Om Parkash son of Jawahar Singh, through his GPA holder, by virtue of sale deed dated 03.11.2006 and that the grandfather of the applicant namely Tule Ram had transferred the said land in favour of the applicant namely Shaan Lohia and his brother Dhruv Lohia by way of transfer deed dated 05.09.2022 and the said transfer deed has been annexed as Annexure A-4 along with the present review application. It is submitted that on the basis of the said documents, the applicant wishes to be impleaded under Order 1 Rule 10 CPC read with Section 151 CPC in the Regular Second Appeal. It is further submitted that the applicant is an aggrieved person and is thus entitled to seek review of the judgment dated 19.07.2024 passed by this Court on two grounds. The first submission made by learned counsel for the review applicant is that the jamabandi for the year 1956-57 which had been exhibited as Ex.P-2 and has been annexed as Annexure A-6 along with present review application shows that the father of the plaintiff was in possession of the disputed land prior to the consolidation and the said Jamabandi has not been considered by this Court while passing the judgment dated 19.07.2024. Secondly, even the observations



made by this Court to the effect that the consolidation proceedings had not been proved, are not in accordance with the documents on record, inasmuch as, the judgments and decrees Ex.P-9 to Ex.P-12 (Annexures A-13 & A-14) would show that the consolidation took place about 25 years before the filing of the said suits, which were filed in the year 1981 and thus, the time of consolidation was 1956-57. Learned counsel for the applicant has further submitted that the applicant wishes to produce additional evidence as the same would further his case and thus, the same be also taken into consideration.

3. This Court has heard the learned counsel for the review applicant and finds that the review application, application for condonation of delay in filing the review application, application for impleadment under Order 1 Rule 10 CPC as well as the application under Order 41 Rule 27 CPC, all deserve to be dismissed for the reasons which have been detailed hereinafter.

4. This Court, vide judgment dated 19.07.2024, had allowed the Regular Second Appeal filed by the appellants-defendants and had dismissed the suit filed by respondent No.1/plaintiff-Ami Lal S/o Jia Ram for declaration that he had become owner of the suit land on the basis of adverse possession. With respect to the plea of adverse possession, this Court had taken into consideration various judgments of the Hon'ble Supreme Court including the judgment in the case of *M.Radheshyamlal vs. V Sandhya and another* reported as **2024 SCC Online SC 318** in which reliance was placed upon the judgment of the Hon'ble Supreme Court in *Karnataka Board of Wakf Vs. Government of India* reported as **(2004) 10 SCC 779** in which it was observed that for proving adverse possession, a party which takes the said plea has to show that his possession had started with a wrongful disposition of the rightful



owner and thereafter the unlawful possession is actually visible, exclusive, hostile and continues over the statutory period and various parameters to prove adverse possession were detailed in the findings of this Court in paragraph 12. The observation of the Hon'ble Supreme Court made in various judgments to the effect that a person pleading adverse possession has no equities in his favour since he is trying to defeat the rights of the true owner and that the plea of adverse possession is not to be readily accepted, unless a clear and cogent basis is made out in the pleadings and thereafter established in the evidence, was also specifically taken note of.

5. The case of the plaintiff-respondent No.1 herein to the effect that the defendants/appellants were recorded as owners of the suit land and prior to them, their predecessor-in-interest was recorded as the owner, was taken into consideration. In para 15 of the judgment passed by this Court, it was observed that the suit had been filed on 05.08.1981 and as per settled law, the plaintiff-respondent No.1 was required to plead and prove that he was in hostile, open, continuous and undisturbed possession of the suit land to the knowledge of the true owner for at least last 12 years i.e. since at least 04.08.1969. Reference was made to the Jamabandi for the year 1970-71 (Ex. P-5), 1965-66 (Ex. P-4) as well as 1961-62 (Ex.P-3) which showed that one Chunna and not the plaintiff was in possession of the suit property and thus, it was noticed that the plaintiff had demolished his own case of hostile possession on the basis of Jamabandis produced by the plaintiff himself. The plea with respect to there being errors in the said Jamabandis was rejected on the ground that the said documents had been produced by the plaintiff himself and there were no averments made in the plaint to even remotely clarify or state as to who was



the said Chunna and that the plaintiff himself had not appeared in the witness box and his attorney PW1 in his cross examination had stated that he had not filed any application before the Tehsildar for change of entries of the Jamabandis and that no suit was also filed to challenge the said entries in the Jamabandis. The judgment of the Hon'ble Supreme Court on the aspect of no evidence being admissible without there being any plea, was also taken note of. The perversity in the judgments of the trial Court as well as the Ist Appellate Court were duly noticed in paragraphs 18 to 20 of the judgment passed by this Court. In the said circumstances, Jamabandi for the year 1956-57, which as per the case of the applicant records the fact that the father of the plaintiff-Ami was shown to be in possession, loses significance as the 12 year period prior to the filing of the suit, for which the plaintiff is required to prove hostile and continuous possession, was not proved from the other Jamabandis as has been detailed in the said judgment dated 19.07.2024.

6. While adjudicating the matter, this Court had also highlighted the fact that in the plaint, no date/year or even approximate time of alleged refusal by the father of the plaintiff to the predecessor-in-interest of the defendants to handover the possession of the suit land had been given nor any evidence regarding the same had been produced. It was also noticed that the plaintiff himself had not appeared and his power of attorney-Naval Singh PW-1 had appeared, who in his cross-examination had stated that he was not aware as to whether Ram Chand defendant was made an owner of the land in dispute at the time of consolidation. The fact that the finding of the Appellate Court in paragraph 14 of its judgment, was contrary to the pleadings in paragraph 2(a) of the plaint and also the fact that neither any date of allotment nor the



allotment order itself had been produced was also taken note of. Several other factors were taken into consideration and all the arguments raised were also duly taken into consideration before passing the judgment dated 19.07.2024.

7. It has been brought to the notice of this Court that against the said judgment dated 19.07.2024, legal representative of Ami Lal (original plaintiff) has filed SLP(C) vide diary No.47816 of 2024 on 15.10.2024. On a pointed query raised by this Court, learned counsel for the review applicant has submitted that in the same, as per his instructions, 8 weeks time has been given on 14.02.2025 to cure the defects as pointed out by the Registry, failing which the same would be dismissed without further reference to the Court. It has also been brought to the notice of this Court that Dr. Vanit Nalwa, who had moved civil miscellaneous application bearing No.CM-4173-C-2011 at the time when Regular Second Appeal was pending and who was also heard by this Court as it was the case of the said Dr. Vanit Nalwa that her predecessor-in-interest had purchased a part of the suit property during the pendency of the suit, is stated to have filed SLP(C) vide diary No. 18138 of 2025 on 05.04.2025.

8. The present applicant is a lis pendens transferee from a lis pendens purchaser. In the present case, the suit was filed in the year 1981 and the Regular Second Appeal was filed in the year 1985. Order dated 06.02.1986 passed by the Coordinate Bench of this Court while disposing CM-3590-C-1985, which had been noticed in para 39 of the judgment dated 19.07.2024 and is relevant for consideration for the present review application is reproduced hereinbelow:-

***“After hearing the learned counsel for the parties, it is ordered that in case the respondent wants to sell the property in dispute during the pendency of this appeal, he would mention in***



***the sale deed that he is the owner of the property by virtue of the decrees granted by the Courts in this litigation against which this appeal is pending in this Court. Without writing this in the sale deed, he would not be allowed to sell the property. In case there is violation it will be open to the other side to move this Court for appropriate orders.***

*It was argued by Shri M.L.Sarin that this Court has no jurisdiction to pass the aforesaid order at the instance of the defendants and such an order could have been passed only if the plaintiff was asking for such a relief. I do not find any merit whatsoever in this argument. This Court has jurisdiction to pass appropriate interim orders according to the facts of the case. Here the plaintiff, who is respondent in this appeal, is wanting to sell the property as owner on the basis of the declaration granted to him by the two Courts below. To avoid any multiplicity of proceedings and to safeguard the interest of the defendant-appellants, the aforesaid order has been deemed necessary which in no way affects the rights of the plaintiff if ultimately he is to succeed in the appeal, but if he is to fail, then the rights of the defendant-appellants would certainly be affected by the sale.*

*This application stands disposed of accordingly.*

*February 6, 1986.”*

A perusal of the above order would show that it was observed that in case respondent No.1 wanted to sell the property in dispute during the pendency of the appeal, then he would have to mention in the sale deed that he became owner of the property by virtue of decrees passed by the trial Court and the 1<sup>st</sup> appellate Court and that the present appeal was pending and without writing the said aspect in the sale deed, he would not be allowed to sell the property.

9. It is the case of the present review applicant that his grandfather namely Tule Ram had purchased some portion of the suit property from Om



Parkash through his GPA holder vide sale deed dated 03.11.2006 (Annexure A-2). It has further been fairly stated by learned counsel for the review applicant that no reference with respect to pending case had been mentioned in the said sale deed and thus, the said sale deed, apart from having been executed during the pendency of the present appeal, was also in violation of order dated 06.02.1986 passed by the Coordinate Bench of this Court. The present applicant-Shaan Lohia has relied upon the transfer deed from his grandfather-Tule Ram dated 05.09.2022 (Annexure A-4), and a perusal of the same also shows that there is non-compliance of the order dated 06.02.1986 which fact has also been fairly admitted by the learned counsel for the review applicant. Thus, even the said transfer deed apart from having been executed during the pendency of the litigation, is also in violation of the order dated 06.02.1986. Moreover, the predecessor-in-interest of the grandfather of the present review applicant was duly heard before the judgment dated 19.07.2024 was passed. In the circumstances explained above, the present review applicant would have no right to re-agitate the matter and the purchase made by his predecessor-in-interest (grandfather) as well as the transfer in his favour would have to be governed by the principle of 'lis pendens'. It would also be relevant to note that the counsel who has filed the present review application had not argued the main Regular Second Appeal and thus, is also not entitled to re-agitate the case.

10. The Hon'ble Supreme Court in the case of **Parsion Devi and others Vs. Sumitri Devi and others** reported as **(1997) 8 Supreme Court Cases 715**, had observed that while exercising the power of review under Order 47 Rule 1 CPC, it is not permissible for the Court to rehear the matter



and that the review petition must be resorted to for a limited purpose and cannot be allowed to be "an appeal in disguise". Relevant portion of the said judgment is reproduced hereinbelow:-

*"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 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."*

*10. Considered in the light of this settled position we find that Sharma, J. clearly over-stepped the jurisdiction vested in the court under **Order 47 Rule 1 CPC**. The observation of Sharma, J. that "accordingly", the order in question is reviewed and it is held that the decree in question is reviewed and it is held that the decree in question was of composite nature wherein both mandatory and prohibitory injunction were provided" and as such the case was covered by Article the scope of **Order 47 Rule 1 CPC**. There is a clear distinction between an erroneous decision and an error apparent on the face of the record. While the first can be corrected by the higher forum, the later only can be corrected by exercise of the review jurisdiction. While passing the impugned order, Sharma, J. found the order in Civil Revision dated 25.4.1989 as an erroneous decision, though without saying so in so many words. Indeed, while passing the impugned order Sharma, J. did record that there was a mistake or an error apparent on the face of the record which not of such a nature, "Which had to be detected by a long drawn process of reasons" and proceeded to set at naught the order of Gupta, J. However, mechanical use of statutorily sanctified phrases*



*cannot detract from the real import of the order passed in exercise of the review jurisdiction. Recourse to review petition in the facts and circumstances of the case was not permissible. The aggrieved judgment debtors could have approached the higher forum through appropriate proceedings, to assail the order of Gupta, J. and get it set aside but it was not open to them to seek a "review of the order of petition. In this view of the matter, we are of the opinion that the impugned order of Sharma, J. cannot be sustained and accordingly accept this appeal and set aside the impugned order dated 6.3.1997."*

11. With respect to the application filed under Order 41 Rule 27 CPC, it would be relevant to note that the application filed by the review applicant would not fall within any of the parameters as laid down in Order 41 Rule 27 CPC. Order 41 Rule 27 CPC is reproduced hereinbelow:-

**“ORDER 41 RULE 27 CPC:-**

**27. Production of additional evidence in Appellate Court—**

*(1) The parties to an appeal shall not be entitled to produce additional evidence, whether oral or documentary, in the Appellate Court. But if—*

*(a) the Court from whose decree the appeal is preferred has refused to admit evidence which ought to have been admitted, or*

*[(aa) the party seeking to produce additional evidence, establishes that notwithstanding the exercise of due diligence, such evidence was not within his knowledge or could not, after the exercise of due diligence, be produced by him at the time when the decree appealed against was passed, or]*

*(b) the Appellate Court requires any document to be produced or any witness to be examined to enable it to pronounce judgment, or for any other substantial cause, the Appellate Court may allow such evidence or document to be produced, or witness to be examined.*



*(2) Wherever additional evidence is allowed to be produced by an Appellate Court, the Court shall record the reason for its admission.”*

12. In the present case, it cannot be stated that the trial Court or the Appellate Court has refused to admit the evidence which is sought to be produced by way of additional evidence as the same was not produced before either the trial Court or the First Appellate Court. The suit was filed in the year 1981 and the Regular Second Appeal was decided on 19.07.2024 and till the decision of the appeal, no party had produced the said additional evidence; although, even as per the case of the review applicant, the said documents were already in existence at the time of trial. It thus, cannot even remotely be stated that there was exercise of due diligence in producing the said documents. The applicant is transferee pendente lite and has to sink or swim with his predecessor-in-interest, and it does not lie in his mouth to reopen the case on account of evidence which he seeks to rely upon in the present review application. It is settled law that a transferee pendente lite does not have any right to raise an independent plea, much less, to re-agitate the case which has been finally adjudicated. Moreover, since this Court had already decided the main Regular Second Appeal vide judgment dated 19.07.2024, thus, it cannot be said that this Court requires any document (sought to be produced) to enable it to pronounce the judgment or for any substantial cause, rather the predecessor-in-interest of the grandfather of the present applicant had based his case on the basis of adverse possession and it was the defendants/appellants in the Regular Second Appeal who were the true owners of the property and thus, even substantial justice requires the application to be dismissed.

13. Moreover, in case the present applicant is allowed to lead



additional evidence, then, the same would result in setting at naught the proceedings which had been initiated in the trial Court in the year 1981 and the Regular Second Appeal regarding which had been filed in the year 1985. It is the case of the review applicant that his grandfather had purchased land measuring 5 biswas out of the suit land on 03.11.2006 and had transferred the same vide transfer deed in his favour on 05.09.2022, yet neither the grandfather of the applicant nor the applicant chose to move an application at the time when the Regular Second Appeal was pending. It is after the decision of the appeal and at the time when the predecessor-in-interest of the grandfather of the applicant namely Om Parkash had filed SLP before the Hon'ble Supreme Court that the present applicant became active. Even no specific plea has been taken as to when and how the present applicant learnt about the filing of the Regular Second Appeal and the passing of the judgment dated 19.07.2024. Even the reliance sought to be placed upon judgments and decrees Ex.P9 to Ex.P12 does not further the case of the review applicant. In this regard, it is observed that it is not in dispute that the said judgments are not inter se parties. Moreover, this Court had considered the entire evidence and documents on record and had then returned a finding in para 12 to para 46 in the judgment dated 19.07.2024 and the said judgments and decrees Ex.P9 to Ex.P12 do not call for review or recalling the judgment dated 19.07.2024.

14. In view of the above, this Court is of the opinion that neither there is any ground to review the judgment dated 19.07.2024 passed by this Court nor there is any ground to condone the delay in filing the review application nor there is any merit in the application for impleadment or in the application under Order 41 Rule 27 CPC for placing on record Annexures A-15 to A-18



by way of additional evidence.

15. Keeping in view the abovesaid facts and circumstances, review application bearing No.RA-RS-17-2025, application bearing No.CM-3604-C-2025 for condonation of delay in filing the review application, application bearing No.CM-3607-C-2025 filed under Order 1 Rule 10 CPC read with section 151 CPC for impleadment of the applicant namely Shaan Lohia, as well as application bearing No.CM-3608-C-2025 filed under Order 41 Rule 27 CPC for placing on record Annexures A-15 to A-18 by way of additional evidence, are dismissed.

16. All the pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid order.

**07.04.2025**

*Pawan*

**(VIKAS BAHL)**  
**JUDGE**

**Whether speaking/reasoned:- Yes/No**

**Whether reportable:- Yes/No**