

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

**Date of decision : 15.05.2025**

**RA-RS-39-C-2012 IN RSA-1394-2012**

Smt. Surjit Kaur Noor ..... Appellant

versus

Jasbir Singh & ors. .... Respondents

**RSA-1549-2012**

Surjit Singh & ors. .... Appellants

versus

Smt. Surjit Kaur & ors. .... Respondents

**CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN**

**\*\*\***

Present :- Mr. Ritesh Aggarwal, Advocate  
for the appellants (RSA-1549-2012)  
for respondents No.3 to 7  
(RA-RS-39-C-2012 IN RSA-1394-2012 )

Mr. Puneet Jindal, Sr. Advocate with  
Mr. Rahul Bansal, Advocate  
for the appellant (RSA-1394-2012)  
for respondent (RSA-1549-2012)  
for applicant-appellant (RA-RS-39-C-2012)

Mr. Sumeet Mahajan, Senior Advocate  
with Mr. Saksham Mahajan, Advocate  
Mr. Shrey Sachdeva, Advocate and  
Ms. Shruti Singla, Advocate  
for respondents No.8,9,10,11,12 in  
RA-RS-39-C-2012 in RSA-1394-2012  
for respondent No.3 to 7 in RSA-1549-2012

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**PANKAJ JAIN, J. (ORAL)**

**RA-RS-39-C-2012 IN RSA-1394-2012**

Present application has been filed for reviewing order dated 23.03.2012.

On 04.04.2025 the following order was passed :-

**RA-RS-39-C-2012 IN RSA-1394-2012**

*This is an application seeking review of the judgment dated 23.03.2012 passed by this Court in RSA No.1394 of 2012 observing as under :-*

*“In view of the aforesaid, it is clarified that setting aside of Will dated 04.07.1990 by the lower appellate Court shall pertain to suit land only and shall not affect any other property and legality and validity of the said Will relating to other property may be independently adjudicated upon in appropriate proceedings whenever occasion arises for the same. Nothing in judgments of the courts below in the instant lis shall have any bearing either way on the legality or validity of the said Will.*

*Subject to aforesaid clarification, the instant second appeal is dismissed.”*

*Review application was filed bringing forth that the stand of defendant No.1-appellant has been wrongly recorded to the effect that the suit land being the Trust property is not affected by WILL propounded by defendant No.1-appellant whereas, right from the beginning the stand of defendant No1 is that major chunk of the suit property is exclusive property of Late Gurbax Singh and thus the WILL propounded by defendant No.1 has to be read to his benefit. The said issue needs to be decided in the present lis. The Bench issued notice in the application seeking review observing as under :-*

**“CM No. 5154.C of 2012**

*Allowed as prayed for.*

**RA No. 39.C of 2012**

*Counsel for the applicant-appellant contended that in impugned order dated 23.3.2012, this Court has observed that defendant no. 1-appellant herself pleaded that the suit land is Trust property but at that time the counsel could not point out that part of the suit property is Trust property and part of the suit property was also exclusive personal property of Gurbax Singh since deceased as pleaded by defendant no. 1 in her written statement. It is, thus, contended that question of Will set up by defendant no. 1 appellant regarding part of the suit property which was exclusive personal property of Gurbax Singh has to be adjudicated upon in the lis.*

*Notice of motion to Mr. Rohit Khanna, Advocate for respondent no. 2 and 8 to 11-caveators.*

*Mr. Rohit Kumar, Advocate for Mr. Rohit Khanna, Advocate accepts notice on behalf the said caveators and prays for adjournment.*

*Adjourned to 30.8.2012.”*

*Counsel for the applicant submits that since there was factual error apparent on the face of record. The stand of defendant No.1-appellant was wrongly noticed against the record, it calls for review.*

*Mr. Sarin, Sr. Advocate for respondents No.3 to 7 submits that the plea raised in para 2 (v) of the application cannot be held to be an error apparent on the fact of record and thus it would not be a ground to review the judgment dated 23.03.2012.*

*In order to support his contention he relies upon **Inderchand Jain (D) through LRs Vs. Motilal (D) through LRs, 2009(14) SCC 663 and Kamlesh Verma Vs. Mayawati & ors., 2013 (8) SCC 320.***

*Mr. Sumeet Mahajan, Sr. Advocate supports the contention of the applicant.*

*I have heard learned counsel for the parties and have gone through the records of the case.*

*Apart from pleas raised by counsels, an important factor that needs to be noticed is that plaintiffs filed RSA-1549-*

*2012 impugning the judgment impugned in RSA-1394-2012. The same was listed before the same Bench. Notice of motion order dated 20.11.2012 reads as under :-*

*“It is stated that there was connected appeal bearing **R. S. A.No.1394 of 2012** arising out of the same lis, which was decided by this Court, but Review Application bearing **R. A. No. 39-C of 2012** filed therein is now pending for 20.12.2012.*

*Notice of motion for 20.12.2012.*

*Records of the courts below be requisitioned.*

*List along with **R. A. No. 39-C of 2012** in **R. S. A. No.1394 of 2012.**”*

*In view of above, this Court finds that the argument raised by Mr. Sarin, Sr. Advocate objecting to the review application sans merit and can not be accepted. So far as the stand taken by defendant No.1 is concerned, the same is matter of record. As recorded in the order issuing notice on the review application the Bench misread the stand of defendant No.1 which led to error in the judgment. The same would fall within the scope of Order XLVII Rule 1 CPC. Same is the law laid down by Supreme Court in the case of **Inderchand Jain's case supra** observing as under :-*

*“25. 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 summarized 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 C.P.C.*

*(ii) Power of review may be exercised when some mistake or error apparent on the fact of record is found. But error on the face of record must be such an error which must strike one on mere looking at the record and would not require any*

long drawn process of reasoning on the points where there may be conceivable 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'."

*At this stage, Mr. Sarin, Sr. Advocate submits that as per High Court Rules and Orders, when review application is being adjudicated by the Judge other than the one who passed order under review, the same has to be listed before Division Bench. He has not been able to point out any provision specifically.*

*Be that as it may, Registry is directed to place the matter before Hon'ble the Chief Justice for appropriate orders regarding appropriate Bench and requisite corum thereof.*

**RSA-1549-2012**

*To be heard along with RA-RS-39-C-2012 IN RSA-1394-2012.*

*Photocopy of this order be placed on the connected file.*

The issue has been clarified by the Registry and the reliance has been placed upon High Court Rules and Orders, Vol.V. Ch.3-B Rule 5 which reads as under :-

“5. *In cases not provided for by Order XLVII, Rule 5, an application for a review of a decree or order shall be heard by a Bench consisting of as many Judges as the Bench the review of whose decree or order is applied for.*”

In view of above the objection raised by Mr. M.L.Sarin, Senior Advocate has been found to be misplaced and his contention has been found to be factually wrong so has been admitted by instructing counsel Mr. Ritesh Aggarwal, Advocate.

Mr. Ritesh Aggarwal, Advocate undertakes to be more careful in future.

The review application is allowed in terms of order dated 04.04.2025. Main case is restored to its original number.

**RSA-1549-2012 & RSA-1394-2012**

Adjourned to 08.09.2025 for final arguments.

Photocopy of this order be placed on the connected file.

**( PANKAJ JAIN )  
JUDGE**

**15.05.2025**  
*Pooja sharma-I*