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RP-953-2026

IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE SANDEEP N. BHATT

ON THE 29th OF SEPTEMBER, 2026

REVIEW PETITION No. 953 of 2026

CNR No.: MPHC020173462026

THE STATE OF MADHYA PRADESH AND OTHERS

Versus

*KALABAI (SINCE DECEASED) THROUGH EGAL REPRESENTATIVES
AND OTHERS*

Whether reportable : YES/NO

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Appearance:

Shri Kushagra Singh - Govt Advocate for the petitioners/State.

Ms Surbhi Bahal, learned counsel for the respondent .
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ORDER

Heard on IA No.5130/2026, which is an application for condonation of delay in filing the review petition.

2. Looking to the facts available on record and considering the fact that grounds are mentioned in paragraphs 3 to 10 which gives the dates and events for the procedural aspects and delay is caused due to administrative process, therefore, sufficient cause is made out to condone the delay, more particularly by considering the judgment laid down in the case of *Hon'ble Apex Court in Collector, Land Acquisition, Anantnag vs. Mst. Katiji @ Ors. AIR 1987 SC 1353*, wherein it has been held that Courts should adopt liberal view for condoning the delay. Therefore, I.A. No. 5130/2026 is allowed and delay in filing the review petition is condoned.

3. This review petition under Order 47 Rule 1 and 2 r/W Section 151



CPC has been filed by State seeking review of order dated 18.2.2025 passed in first appeal No. 641/2020.

4. It is contended by counsel for petitioner that diversion of land stood cancelled by competent authority which fact goes to the root of the matter and directly affects valuation of compensation and said order was not considered while passing the order dated 18.2.2025 in FA No. 642/2020. It is further contended that the reliance placed in F.A. No. 705/2020 and F.A. No. 230/2025 is misplaced and inapplicable, as those cases did not involve a situation where the diversion itself stood cancelled. She has further submitted that the respondents have derived benefit of enhanced compensation by projecting the land as diverted, despite the fact that the diversion order had already been cancelled, which amounts to suppression/misrepresentation of material facts. Therefore, she has submitted that the enhancement of compensation is entirely based on the assumption of diverted land, which ceases to exist in law after cancellation of diversion and therefore, this Hon'ble Court has not considered this aspect as it was not brought to the notice of the Hon'ble Court and has passed the order on erroneous consideration and therefore, considering the provisions of Order 47 Rule 1 CPC review of the order is required.

5. Counsel for respondent No.2 has opposed the prayer by submitting that *prima facie* there is no substance in the review as no ground is made out as required under Order 47 Rule 1 CPC. She has submitted that though it is the case of respondent authority that petitioner has suppressed the fact but this fact is within the knowledge of the concerned counsel for the State and he could not point out on behalf of the State at the relevant point of time. Moreover, she has submitted that the order of cancellation of diversion was challenged before this Hon'ble Court by way of WP No. 14769/2025 decided on 31st October, 2025



whereby with the consent of the counsel for the State, the order is quashed and therefore, on that ground assuming that fact was not available with the Court at that time, no ground is required to be considered and therefore, she has submitted that the present review petition is required to be dismissed. In fact the appeal was filed by the State authority and that fact is required to be brought to the notice by the State authority and instead of bringing into notice, they are trying to canvass the case on the ground that there is suppression of material fact, which is also not permissible under the law.

6. I have considered the rival submissions made at the bar. I have also considered the fact that while considering the impugned order which is under challenge by way of this review petition, this Court has relied on the judgments of F.A. No. 705/2020 and other connected appeals and dismissed the first appeal filed by the State Government.

7. Considering the fact that even assuming the fact for the sake of arguments, Counsel for State has failed to discharge his duty, this ground itself is not sufficient to entertain the review petition, more particularly, in absence of any material on record that such action was deliberate one and in view of this suppression, any further action is taken by the State against the counsel.

8. Be that as it may, without entering much on that issue, it would be relevant to note that the order of cancellation of diversion is challenged by way of WP No. 14769/2020 and by order dated 31.10.2025 this Court has considered this aspect in detail while considering the application for diversion. The relevant portion of paragraphs 6 to 9 of that order is required to be reproduced as under:-

6. I have considered the submissions of learned counsel for the parties and have perused the record.

7. In **Siddharth Dev Singh (supra)** it has already been held by this Court that prior to seeking permission for review notice is required to be issued and prior to grant of



sanction also notices is to be issued. it has been held as under:-

"11. Section 51 of the MPLRC provides for review of the order. As per sub-section (1), the Board and every Revenue Officer may, either on its/his own motion or on the application of any party interested review any order passed by itself/himself. Proviso (i-a) provides that no order shall be varied or reversed unless notice has been given to the parties interested to appear and be heard in support of such order. As per this section, the Board or every Revenue Officer has power of suo moto review the order. However, as per the proviso (i-a), the order shall not be varied or reversed unless notice has been served on the interested party. In the present case, from the order passed by the SDO, it reveals that no notice or opportunity of hearing was given to the petitioner before passing the impugned order. Even prior to seeking permission to review the auction proceeding, no notice has been given to the petitioner.

12. The Division Bench of this Court in the case of Shaheed Anwar (supra) in para-5 and 6 has held as under :

"5. We find some substance in the plea. Even if it was assumed that the power of review was available in the given case still appellant deserves to be put on notice and afforded an opportunity of being heard. Because no order affecting his interest and reopening the exchange deal concluded years back could be passed at his back and without affording him opportunity of being heard. Moreover it would be innocuous to provide him such opportunity in the given facts and circumstances of the case which would cause prejudice to none, least of all to the interests of the State.

6. This appeal is accordingly allowed and writ Court order dated 07/10/98 passed in W.P. No.920/98 is quashed. W.P. No.926/98 shall revive."

As per this section, sanction for review by Board or any other Revenue Officer cannot be granted without notice and hearing the other side.

13. In the present case, even before taking prior sanction from the higher authority, respondent No.2 has not issued any notice to the petitioner which is contrary to the judgment passed by the Division Bench of this Court in the case of Shaheed Anwar (supra). Thus, while exercising the powers under Section 51 of MPLRC, the authorities are required to issue notice or give opportunity of hearing to the person concerned i.e. at the time of obtaining the sanction for exercising the power of review before passing an order of review."

14. Similarly, the Division Bench of this Court in the case of [Govind and others Vs. Settlement Commissioner, M.P. and others](#), reported in 1980 R.N.534, in para-6 has held as under :

"6. Before proceeding to examine the contentions advanced on behalf of the parties, it would be useful to refer to the relevant provisions of the Code, Chapter XVI of the Code deals with consolidation of holdings. When the scheme of consolidation is submitted to the Collector by the consolidation officer under the provisions of sub- section (4) of [Section 209](#) of the Code, the Collector is empowered under [Section 210](#) of the Code to confirm the scheme



with or without modification or to refuse to confirm it after considering the objections to the scheme. That section further provides that the decision of the Collector, subject to any order that may be passed in revision by the Settlement Commissioner under [Section 50](#), shall be final. [Section 51](#) of the Code deals with review of orders. The relevant provisions are contained in sub-section (1) and (2) of [section 51](#), which reads as under; -

"Review of orders-

(1) the Board and every Revenue Officer may either on its/his own motion or on the application of any party interested, review any order passed by itself/himself or by any its/his predecessors in Office and pass such order in reference thereto as it/he thinks fit : Provided that :-

(i) if the Commissioner, Settlement Commissioner, Collector or Settlement Officer thinks it necessary to review any order which he has not himself passed, he shall first obtain the sanction of the Board, and if an officer subordinate to a Collector or Settlement Officer proposes to review any order, whether passed by himself or by any predecessor, he shall first obtain the sanction in writing of the authority to whom he is immediately subordinate; (i-a) No order shall be varied or reversed unless notice has been given to the parties interested to appear and be heard in support of such order;

(ii) No order from which an appeal has been made, or which is the subject of any revision proceedings shall, so long as such appeal or proceedings are pending, be reviewed;

(iii) No order affecting any question of right between private persons shall be reviewed except on the application of a party to the proceeding, and no application for the review of such order shall be entertained unless it is made within ninety days from the passing of the order.

2. No order shall be reviewed except on the ground provided for in [the Code of Civil Procedure](#), 1906 (V of 1908).

Now, in the instant case, it was not contended on behalf of the petitioners that the finality attained by the order of confirmation passed by the Collector under [Section 210](#) of the Code was not subject to any review. Assuming, therefore, that the Collector had the power to review the order of confirmation, there can be no manner of doubt that that power could be exercised by the Collector only in accordance with the provisions of [Section 51](#) of the Code. In the instant case, the Collector is not shown to have passed any order of review disclosing the reasons for reviewing the earlier order. It is, therefore, not possible to ascertain as to whether the decision to review the earlier order of confirmation was founded on grounds specified in O.47 RI, [CPC](#), as provided by sub-section (2) of [section 51](#) of the Code.

Further, no notice was admittedly given to the petitioners before the earlier order of confirmation passed by the Collector on 22 nd October 1969 was sought to be varied. The petitioners were affected by the review of that order



and were undoubtedly interested in supporting that order. In these circumstances, the decision taken by the Collector to review the earlier order, without giving notice to the petitioners, contravened the provisions of

8. In view of the aforesaid pronouncement of this Court, it was imperative for the SDO to have issued notice to the petitioner prior to seeking sanction from the Collector for review and for the Collector to have issued notices to the petitioners prior to grant of sanction for review. The same has not been done in the matter, in view of which the notice cannot be sustained.

9. Consequently, the notice dated 18.9.2020 is hereby quashed. All consequent proceedings and orders subsequent there also stand quashed. The respondent shall however, be at liberty to proceed afresh in the matter in accordance with law.

9. The above observation clearly transpires that the order of diversion of land is already quashed by the Court, moreover, the powers of review prescribed under Section 114 read with Order 47 Rule 1 CPC, which is reproduced as under:-

Section 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.

10. It is also relevant to note that in the recent past, the Hon'ble Apex Court in the judgment of **S. Tirupathi Rao Vs. M. Lingamaiah** reported in (2024) 20 SCC 188 has considered this aspect that when review application is required to be considered and decided. Paragraphs 35 to 40 are relevant which are reproduced as under:-

35. While proceeding to determine the correctness of the impugned order vis-à-vis the exercise of review jurisdiction, we ought to remind ourselves of certain cardinal principles. The exercise of review jurisdiction is not an inherent power given to the court; the power to review has to be specifically conferred by law. In civil proceedings, review jurisdiction is governed by section 114 read in conjunction with order XLVII of the CPC and the court has to be certain that the elements prescribed therein are satisfied before exercising such power. This Court in *Kamlesh Verma v. Mayawati*¹⁹ has succinctly observed that:

“19. Review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of [Order 47 Rule 1 CPC](#).” (emphasis supplied)



36. That the provisions contained in section 114 and [Order XLVII of the CPC](#) relating to review of an order or decree are mandatory in nature and any (2013) 8 SCC 320 petition for review not satisfying the rigours therein cannot be entertained ex debito justitiae, by a court of law, is trite.

37. There is a plethora of decisions analysing the statutory provisions governing the exercise of review jurisdiction; however, we would be referring to a few of them for the purpose of the present exercise. Suffice it to note that despite legal proceedings having commenced with institution of the civil suit as far back as in 1953, the present controversy has, as its source, a writ petition between the first respondent and the Tahsildar preferred in 2009. Although the explanation to Section 141 of the CPC makes it clear that provisions of the CPC would not apply to proceedings under Article 226 of the Constitution, there is authority in abundance that the principles flowing from the CPC may safely be taken as a guide to decide writ proceedings but to the extent the same can be made applicable.

38. To put it plainly, Order XLVII Rule 1 of the CPC provides three grounds for review:

- 1) 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 the applicant at the time when the decree was passed, or order made; or
- 2) mistake or error apparent on the face of the record; or
- 3) for any other sufficient reason, which must be analogous to either of the aforesaid grounds.

39. In [Moran Mar Basselios Catholicos and another v. Most Rev. Mar Paulose Athanasius](#), this Court approved the view that the third ground – “any other sufficient cause” must mean a reason sufficient on grounds, at least analogous to the first two grounds. The same view has been reiterated in a recent decision of this Court in [State \(NCT of Delhi\) v. K.L. Rath Steel Ltd.](#)²¹. This Court affirmed that the scope of the third ground had to be narrowly construed so as to not traverse beyond the orbit of the first two grounds.

40. Since the Division Bench (review) invoked the first clause, we hasten to emphasize that an applicant seeking review on the basis of discovery of new evidence has to demonstrate: first, that there has been discovery of new evidence, of which he had no prior knowledge or that it could not be produced at the time the decree was passed or the order made despite due diligence; and secondly, that the new evidence is material to the order/decreed being reviewed in the sense that if the evidence were produced in court when the decree was passed or the order made, the decision of the court would have been otherwise. Ultimately, it is for the court to decide whether a review sought for by an applicant, if granted, would prevent abuse of the process of law and/or miscarriage of justice.

11. The above mentioned paragraphs clearly indicates that the powers of review can be exercised under Order 47 Rule 1 CPC which provides mainly three grounds for review. The first ground is 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 the applicant at the time when the decree



was passed, or order made; second, mistake or error apparent on the face of the record; and third ground is for any other sufficient reason, which must be analogous to either of the aforesaid grounds.

12. In the present case there is no quarrel about the fact that document was not produced on record, but for that the applicant who is seeking review has to show that there is due diligence. Even the Court has considered the aspect of any other sufficient cause must mean a reason sufficient on grounds, at least analogous to the first two grounds. Therefore, considering all these aspect and considering the fact that by way of subsequent order in writ petition No. 14769/2020, the Court has quashed the diversion notice and subsequent proceedings, therefore, no valid ground is existing for consideration of review. Therefore, I am of the view that present review petition is misconceived and meritless which deserves to be dismissed and is accordingly dismissed.

(SANDEEP N. BHATT)
JUDGE

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