

RVWO/5/2026
CC/45/2018
IA No.GA/1/2026

IN THE HIGH COURT AT CALCUTTA
Special Civil Jurisdiction (Contempt)
ORIGINAL SIDE

MAHESH KUMAR KEJRIWAL AND
ANR.

-VERSUS-

SHREE HANUMAN COTTON MILLS
LIMITED AND ORS.

BEFORE:

The Hon'ble JUSTICE SHAMPA DUTT (PAUL)

Date : 27th August, 2026.

Appearance:

Mr. Jishnu Saha, Sr. Adv.
Mr. Aniruddha Mitra, Sr. Adv.
Mr. Debdudd Mukherjee, Adv.
Mr. Kaushik Banerjee, Adv.
Mr. Ishaan Saha, Adv.
Ms. Rashmita Sen, Adv.
Ms. Sarbani Ghosal, Adv.
...for the review applicant.

Mr. Jishnu Chowdhury, Sr. Adv.
Mr. Subhasish Sengupta, Adv.
Mr. Sukrit Mukherjee, Adv.
Mr. Rajdeep Mantha, Adv.
Mr. Anurag Bagaria, Adv.
Mr. Andolan Sarkar, Adv.
...for the respondent.

The Court: The instant review application has been preferred praying for review of the order dated January 8, 2026 passed by this Court in CC/45/2018 (Mahesh Kumar Kejriwal & Anr. vs. Shree Hanuman Cotton Mills Ltd. & Ors.) .

Mr. Jishnu Chowdhury, learned senior counsel appearing for the Opposite Parties/respondents herein has raised the issue of maintainability of the

review application in respect of an order passed in the Special Civil Jurisdiction (Contempt).

It is the case of the opposite party/respondent that no review lies against an order dismissing contempt. The judgment of the Division Bench of this Court in *Bidhan Chandra Mohanta vs. Siddhartha Majumdar & Ors.* reported in *2025 SCC OnLine Cal 1186*, (paragraph 12) it has been held that no review lies from an order disposing of a contempt petition on merits and/or finally deciding a contempt petition). The Hon'ble Division Bench in paragraph 12 therein has held as follows:

"12. It is needless to say that recalling of final order passed on merits in contempt matters would amount to reviewing the earlier decision/order which had been rightly or wrongly passed on merits. The law is settled on the point that recall/review or appeal are the statutory remedies and unless those are specifically provided/conferred under any Act/Rules, no such recall/modification is maintainable in contempt matters, particularly when the order has been passed on merits finally deciding the issue involved in the case. It would not be out of context to mention here that once a final order has been passed the correctness of such order cannot be examined under the contempt jurisdiction. It is well settled that the contempt court can neither sit in appeal nor examine the correctness of a resultant order."

The said Division Bench judgment lays down that: -

(a) Recall /review or appeal are statutory remedies and unless specifically provided / conferred under Act /Rules, they would not be maintainable.

(b) Contempt of Courts Act, 1971 has no provision for recall / review on merits.

(c) No recall / review / modification in contempt matters is therefore permissible.

The opposite party/respondent has further argued that the Single Judge cannot differ from the views of the Division Bench unless the same is overruled and, in case, the learned Single Judge differs, the matter is to be referred to a Division Bench or before the Hon'ble Chief Justice for constitution of a Larger Bench to examine the question.

To counter the argument of the petitioner herein and the judgment of the Hon'ble Supreme Court in the case of *M.M. Thomas vs. State of Kerala* reported at *(2000) 1 SCC 666* (paragraphs 13 and 14) relied upon in support of their case that review of an order dismissing a contempt application is maintainable, **the opposite party/respondent submits that the said judgment relied upon by the petitioner is in respect of Kerala Private Forests (Vesting and Assignment) Act, 1971 and does not relate to the Contempt of Courts Act, 1971.** It is the further submission of Mr. Chowdhury, that the Contempt of Courts Act, 1971 proceeds on finality of orders disposing of contempt petitions. **Not even an appeal is maintainable from dismissal of a contempt petition.** Appeal under Section 19 is only maintainable from a finding of contempt or punishment. It is further stated that a petitioner alleging contempt is only supposed to bring a fact to the notice of the Court. **Then, it becomes a matter between the Court and the contemnor.** That is why not even a full appellate provision is contained in the Contempt of Courts Act, 1971. No power of review is present. It is further stated that the judgment in *M. M. Thomas (supra)* cannot be applied to contempt matters in view of the fact that there is a direct binding

precedent of the Division Bench of this Hon'ble Court which lays down that there can be no review of an order disposing of a contempt matter.

The opposite party/respondent has further relied upon the judgment of the Division Bench of the Hon'ble Gujarat High Court in ***Sunilkumar Popatbhai Patel v. State of Gujarat*** reported at ***MANU/GJ/1120/2023***, which has clearly held that extending the said judgment of the Hon'ble Supreme Court in M.M. Thomas (supra) to contempt matters would not be correct and the reasons for the same are contained in paragraphs 22 to 24 of such judgment. These reasons can be summarised as: -

(a) Invocation of power and jurisdiction under Article 215 has to be exercised in consonance with the provisions of enacted law.

(b) The enacted law in this case being the Contempt of Courts Act, 1971 does not permit exercise of power of review of an order disposing of a contempt matter.

(c) Power to punish for contempt of court under Article 215 is therefore to be exercised in accordance with the Contempt of Courts Act, 1971, which does not permit review on an order on merits and therefore, the same would not be maintainable.

(d) There cannot be unbridled exercise of power under Article 215, contrary to or in absence of statutory mandate occupying the field.

*(e) In an attempt to distinguish the judgment of the Hon'ble Gujarat High Court in ***Sunilkumar Popatbhai Patel*** (supra), it is contended by the petitioner that the Gujarat Contempt of Courts Rules*

does not permit review. The Calcutta High Court Contempt of Courts Rules, 1975 also do not permit review. Therefore, by the own showing of the petitioner, review is not permissible.

(f) The specific submission of the petitioner, that there are no contempt rules of the Calcutta High Court, is countered by the opposite party stating that the Calcutta High Court Contempt of Courts Rules, 1975 are attached with the note, which does not permit review.

Mr. Chowdhury further submits that the judgment in the case of *Commissioner of Customs and Central Excise v. Hongo India Private Limited* reported at *(2009) 5 SCC 791*, cited by the petitioner relates to an issue wherein the High Courts having inherent and plenary powers act as court of records but that principle has to be decided with the specific provisions of the enactment in mind. It is, thus, submitted that the said judgment of the Hon'ble Supreme Court also clearly shows that review would not be maintainable under inherent power as 'Courts of record' and Contempt of Courts Act, 1971 does not permit review. He also prays for dismissal of the review application on the same being held to be not maintainable.

Mr. Jishnu Saha, learned senior counsel, appearing for the review applicant/petitioner has countered the submission of the learned counsel for the opposite party/respondent as to maintainability, by putting forward an argument by way of written notes and submits relying upon Article 215 of the Constitution of India, which is set out hereinbelow for the sake of convenience:

“215. High Courts to be courts of record

Every High Court shall be a court of record and shall have all the powers of such a court including the power to punish for contempt of itself.”

Mr. Saha submits that in the case of ***M.M. Thomas*** (*supra*) the Hon'ble Supreme Court while answering the question as to whether a High Court has no power to correct its own orders, even if the High Court is satisfied that there is error apparent on the face of the record has held that a High Court as a court of record, as envisaged under Article 215 of the Constitution, has inherent powers to correct the records. It was further held that a court of record is undoubtedly a superior court which is itself competent to determine the scope of its own jurisdiction and the High Court not only has the power but also the duty to correct the orders wherein apparent errors are noticed. In conclusion, the Hon'ble Supreme Court held that the plenary powers of the High Court would include the power of review relating to errors apparent on the face of the record.

Mr. Saha also relies upon the judgment of ***Shyamsundar s/o Late Daulatram Bhambhawani Vs. Lokesh Chandra & Ors.*** reported in ***2011 (2) Mh. L.J. 432***, where the issue before the Hon'ble Bombay High Court was whether the High Court while exercising the powers under the Contempt of Courts Act, by virtue of Article 215 of the Constitution of India has jurisdiction to review its own order? Following the ratio of the judgment of ***M.M. Thomas*** (*supra*), the Hon'ble Bombay High Court held The Courts of Record would inherently possess the powers to correct its record, and this term "Records" would imply the power of Courts to correct the errors on judicial side, in order to maintain majesty of the law, Court, and justice. The power to review is available even beyond Section 114 of Civil

Procedure Code read with order 47 thereof and would be available to advance the cause for which such code is constituted. The Hon'ble Bombay High Court finally held that in exercise of powers to punish the contemnor by virtue of section 215 of the Constitution of India, notwithstanding the provision of Contempt of Court Act, 1971, the High Court has jurisdiction to review its own order.

Mr. Saha further relies upon the judgment of the Hon'ble Supreme Court in the case of *Commissioner of Customs and Central Excise Vs. Hongo India Private Limited & Anr.* reported in (2009) 5 SCC 791, wherein the Hon'ble Supreme Court followed the ratio in the *M.M. Thomas (supra)* and held that there is no doubt that the High Court possess all powers in order to correct the errors apparent on the face of record.

It is further submitted that in the case of *G. Bhagavat Singh Vs. Manoj Joseph & Ors.* reported in *AIR 2019 Ker 30 (FB): 2018 SCC Online Ker 4900*, the issue before the Full Bench of the Hon'ble High Court at Kerala was that whether the review petition filed against the judgment in the Contempt Case was maintainable or not. Following the ratio of the cases of *M.M. Thomas (supra)* and *Shymasundar Vs. Lokesh Chandra (supra)*, the Full Bench of Hon'ble High Court at Kerala held that a review petition is maintainable against an order in a contempt case.

Mr. Saha finally submits that all the judgments relied upon mandate that a review petition from an order passed in a contempt case is maintainable before a High Court under Article 215 of the Constitution of India.

Mr. Saha has distinguished the judgment of the Hon'ble Division Bench of this Court in the case *Bidhan Chandra Mohanta (supra)*. It is submitted that the judgment was rendered in an appeal from an order passed on a contempt application. The issue before the Court was whether the learned Single Bench in exercising contempt jurisdiction can pass an order **which runs counter to the spirit of the original order for which violation was pleaded in the contempt application.** The Court held that recalling of final order passed on merit in contempt matters would amount to reviewing the earlier order. Thus, the ratio of the decision is that in a contempt jurisdiction, the original order, violation whereof was alleged in the contempt application, **could not be recalled and/or reviewed.** Mr. Saha further states that this judgment neither considers Article 215 of the Constitution of India nor considers the aforesaid judgments rendered by the Hon'ble Supreme Court of India and hence is per incuriam and, it is, thus, submitted that the instant review application based on the ground of error apparent on the face of the record is maintainable in law.

On hearing the learned senior counsel for the parties, and on perusal of the materials on record, it appears that the judgment in *M.M. Thomas (supra)* and, *Shymasundar (supra)*, *Commissioner of Customs and Central Excise (supra)*, *G. Bhagawat Singh (supra)* wherein the Courts followed *M.M. Thomas (supra)*, all relate to the general cases of review.

The Contempt of Courts Act being a special act, an order under the act is not amenable to review, on the grounds for review, as laid down in *M.M. Thomas (supra)*,

Procedural review is provided under Order 47 Rule 1 of the Code of Civil Procedure and not on merits.

A contempt proceeding being quasi criminal in nature, the provisions of review either procedural or on merits does not arise.

Section 362 of the Code of Criminal Procedure (CrPC) explicitly bars criminal courts from reviewing, altering, or revisiting their own judgments or final orders once they are signed, except to correct clerical or arithmetical errors.

Unlike civil law (which allows a court to review its own decision under Section 114 of the Civil Procedure Code and under Order 47 Rule 1 CPC, criminal law follows a strict rule of finality to prevent endless litigation. Once a criminal court delivers a judgment, it becomes *functus officio*, meaning its official power over that case has ended.

While a substantive review is not allowed, a court may correct very narrow mistakes:

- Correcting accidental clerical or arithmetical errors.
- Rare procedural corrections where a mistake by the court causes direct prejudice to a party (such as non-service of a necessary party).

The judgment and guidelines as laid down, in ***Bidhan Chandra Mohanta*** (*supra*) (para 12) is applicable to the present case, where in, this Court **dismissed the contempt application on merits**, finally deciding the issues involved in the contempt proceedings.

Thus, keeping with the principles/observations in *Bidhan Chandra Mohanta* (*supra*), the review application praying for review of an order passed in a contempt proceedings, which was dismissed on merit, is not maintainable and, thus, stands rejected.

RVWO/5/2026 and the connected application stand disposed of.

Interim order, if any, stands vacated.

Urgent certified website copy of this judgment, if applied for, be supplied expeditiously after complying with all, necessary legal formalities.

(SHAMPA DUTT (PAUL), J.)