

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE**

**RVWO/22/2026
IA No.GA/1/2026
GA/2/2026**

**T. E. THOMSON AND COMPANY LTD.
-VERSUS-
RAJSHRI PRODUCTIONS PVT. LTD.**

**RVWO/23/2026
IA No.GA/1/2026
GA/2/2026**

**T. E. THOMSON AND COMPANY LTD.
-VERSUS-
RAJSHRI PRODUCTIONS PVT. LTD.**

Present :

**The Hon'ble Justice Debangsu Basak
-And-**

The Hon'ble Justice Md. Shabbar Rashidi

For the Appellant : *Mr. Rajarshi Dutta, Adv.
Mr. Varun Kothari, Adv.
Mr. A. P. Agarwalla Adv.*

For the Respondent : *Mr. Chayan Gupta, Adv.
Mr. Rittick Chowdhury, Adv.
Mr. Dwip Raj Basu, Adv.*

HEARD ON : 30.06.2026

DELIVERED ON : 30.06.2026

DEBANGSU BASAK, J.:-

1. RVWO/22/2026 and RVWO/23/2026 are filed seeking review of the judgment and order dated April 20, 2026 passed in APO/25/2025 and APD/1/2025.

2. IA No.GA/1/2026 in RVWO/22/2026 and GA/1/2026 in RVWO/23/2026 are applications for condonation of delay.
3. The delay in both the cases is of 54 days.
4. Prayer for condonation of delay is not opposed. Considering the averments made in the application for condonation of delay and for the ends of justice, we deem it appropriate to condone the delay. IA No.GA/1/2026 in RVWO/22/2026 and GA/1/2026 in RVWO/23/2026 are allowed.
5. By the judgment and order under review, we held that, the judgment and decree impugned before us was passed by a Court without requisite jurisdiction. We set aside the same. In doing so we relied upon the provisions of the Commercial Courts Act, 2015 and the nature of the suit and the determination/roster where the suit was appearing before the learned Trial Judge.
6. Learned Advocate appearing for the review applicant submits that, the theory of same judge hearing the commercial dispute matter was not considered while we disposed of the appeal by the judgment and order under review. He submits that, the Hon'ble Supreme Court in ***Civil Appeal No. 006873 of 2026 (SLP(C) No.8111 of 2026) (Shri Balaji Industrial Engineering Ltd. vs. Steel Authority of India Ltd.)*** overruled the view of the Court on the issue of a learned Judge not being able to decide on a commercial dispute matter in the non-commercial division. He submits that, ***Shri Balaji Industrial Engineering Ltd. (supra)*** was rendered on April 22, 2026 while the judgment and order under review was rendered on April 20, 2026.

7. Learned Advocate appearing for the review applicant relies upon **(2008) 7 SCC 38 (Jagmohan Singh vs. State of Punjab & Ors.)** in support of the contention that, subsequent event can be taken note of in deserving cases for the purposes of a review. He submits that, facts and circumstances of the present case deserve reconsideration of the decision rendered in the judgment and order under review in view of the decision of the Hon'ble Supreme Court rendered in **Shri Balaji Industrial Engineering Ltd. (supra)**.
8. Learned Advocate appearing for the appellant submits that, the same judge theory was not considered by the Court prior to **Shri Balaji Industrial Engineering Ltd. (supra)**. He refers to the decisions of the this Court rendered in APO/65/2024 with AP/1097/2013 on February 2, 2026 (Steel Authority of India Ltd. – IISCO Steel Plant vs. Balaji Industrial Products Ltd.) and in APO/48/2021 with AP/590/20112 (Starlift Services Pvt. Ltd. vs. Syama Prasad Mookerjee Port, Kolkata) and APO/141/2023 with AP/915/2011 (State of West Bengal vs. Rajpath Contractors and Engineers Ltd. & Anr.) dated April 9, 2026.
9. Learned Advocate appearing for the review applicant relies upon **(2005) 4 SCC 741 (Board of Control for Cricket in India & Anr. vs. Netaji Cricket Club & Ors.)** in support of the proposition that, in the facts and circumstances of the present case, the review should be allowed.
10. Learned Senior Advocate appearing for the respondent submits that, pronouncement of a subsequent binding precedent is no ground for review. In support of such contention he draws the attention of the Court to the explanation to Order XLVII of the Code of Civil Procedure, 1908 and

2024 INSC 454 (Govt. of NCT of Delhi & Anr. vs. M/s. K.L. Rathi Steels Ltd. & Ors.).

- 11.** The review applicant, as the plaintiff filed a suit for eviction and mesne profit being CS/257/2018. A decree dated October 7, 2024 was passed in such suit. The respondent as defendant vacated the suit property in terms of the decree for eviction. Appeal was carried by the respondent directed against the decree for mesne profit.
- 12.** By the judgment and order under review dated April 20, 2026 we found that the suit for eviction was in respect of an immovable property which was being used for commercial purposes. We found that, an office was being run by the defendant in such tenanted premises. We also found that, the defendant made over possession of the tenanted premises to the review applicant during the pendency of the suit.
- 13.** On consideration of the provision of the Act of 2015 and particularly Section 15 thereof, we held that, since the subject-matter of the suit involved a commercial dispute within the meaning of Section 2(1)(c) thereof and since the decree for mesne profit was passed by a learned Single Judge who decided such suit in the non-commercial division, we held the decree to be a nullity.
- 14.** This view of ours, in the judgment and order under review, was taken earlier by us as in **Balaji Industrial Products Ltd. (supra)** and **Starlift Services Pvt. Ltd. (supra)**.
- 15.** A Special Leave Petition (SLP) was carried against our decision dated February 2, 2026 rendered in **Balaji Industrial Products Ltd. (supra)**. The Special Leave Petition being so admitted as **Civil Appeal No.**

006873 of 2026 (SLP(C) No.8111 of 2026) (Shri Balaji Industrial Engineering Ltd. vs. Steel Authority of India Ltd.) held that the Division Bench was not justified in setting aside the judgment of the learned Single Judge solely on the ground of lack of jurisdiction without examining the merits of the case.

16. **Shri Balaji Industrial Engineering Ltd. (supra)** was rendered on April 22, 2026 while the judgment and order under review was rendered on April 20, 2026.
17. The issue is whether or not, the review is maintainable in view of a binding precedent on us passed subsequent to the judgment and order under review. On such issue, Hon'ble Supreme Court in **M/s. K. L. Rathi Steels Ltd. & Ors. (supra)** held as follows:

*“104. We, thus, hold that no review is available upon a change or reversal of a proposition of law by a superior court or by a larger Bench of this Court overruling its earlier exposition of law whereon the judgment/order under review was based. We also hold that notwithstanding the fact that **Pune Municipal Corporation** (supra) has since been wiped out of existence, the said decision being the law of the land when the Civil Appeals/Special Leave Petitions were finally decided, the subsequent overruling of such decision and even its recall, for that matter, would not afford a ground for review within the parameters of Order XLVII of the CPC.”*

18. In view of the authoritative pronouncement of the Hon'ble Supreme Court in **Shri Balaji Industrial Engineering Ltd. & Ors. (supra)** holding that

no review is available upon a change or reversal of proposition of law by a superior or by a larger Bench of the Supreme Court overruling its earlier exposition of law, we hold that the present review is not maintainable. As noted above, ***Shri Balaji Industrial Engineering Ltd. & Ors. (supra)*** occurred subsequent to the judgment and order under review.

- 19.** In such circumstances, RVWO/22/2026 and RVWO/23/2026 and the connected applications are dismissed without any order as to costs.

20. I agree.

(DEBANGSU BASAK, J.)

(MD. SHABBAR RASHIDI, J.)

A/s.