

15.10.2026
Item No.05
Ct. No. 30
g.b.

**RVW 150 of 2026
With
CAN 1 of 2026
In
CO 2235 of 2023**

**Sri Rajesh Kumar Gupta & Ors.
Vs.
High Rank Estate Advisory Pvt. Ltd. & Anr.**

Mr. Soumya Majumdar, Sr. Advocate
Ms. Noelle Banerjee
Mr. Dipanjan Dey

... For the Petitioners

Mr. Mainak Bose, Sr. Advocate
Ms. Deblina Lahiri
Ms. Rashmi Singhee
Mr. Mrinmoy Chatterjee

....For the Respondent No.1

1. Affidavit of service filed be taken on record.
2. The review application has been preferred praying for review of this Court's order dated 04.05.2026 passed in CO 2235 of 2023 wherein the Court on hearing the parties was pleased to dismiss the civil revision which was filed challenging a judgement and order dated 22nd June, 2023 passed by the Debts Recovery Appellate Tribunal, Kolkata in Appeal no.112 of 2022.
3. The grounds for review are as follows:
 - (i) That the impugned order is erroneous and has been passed on certain issues that the petitioners were not called upon to present.

4. The petitioners' case is that their challenge is in respect of the valuation of the suit property which was not properly valued and the petitioners pray for proper valuation and a fresh auction and the excess amount of the sale proceeds be paid to the petitioners.

5. The petitioners further state that the Court did not consider that there was no requirement to satisfy Section 61 (b) of the Second Schedule of the Income Tax. The petitioners have filed written notes and relied upon the following judgements and have stated that there are errors on the face of the record which needs correction:

(i) *Hari Vishnu Kamath v. Syed Ahmad Ishaque*, AIR 1955 SC 233; (1954) 2 SCC 881, para 28 (Annexure "A")

(ii) *Murlidhar Ratanlal Exports Ltd. v. State of West Bengal*, MANU/WB/0801/2026 (Annexure "B")

6. On the other hand, the learned counsel for the opposite party has relied upon the judgement of the Hon'ble Supreme Court in *Malleeswari Vs. K. Suguna & Anr.* reported in 2025 SCC OnLine SC 1927. Paragraphs 15 to 18 are quoted below:

15. It is axiomatic that the right of appeal cannot be assumed unless expressly conferred by the statute or the rules having the force of a statute. The review jurisdiction cannot be

assumed unless it is conferred by law on the authority or the Court. Section 114 and Order 47, Rule 1 of CPC deal with the power of review of the courts. The power of review is different from appellate power and is subject to the following limitations to maintain the finality of judicial decisions:

15.1 The 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 of CPC.

15.2 Review is not to be confused with appellate powers, which may enable an appellate court to correct all manner of errors committed by the subordinate court.

15.3 In exercise of the jurisdiction under Order 47 Rule 1 of CPC, it is not permissible for an erroneous decision to be reheard and corrected. A review petition, it must be remembered, has a limited purpose and cannot be allowed to be an appeal in disguise.

15.4 The power of review can be exercised for the correction of a mistake, but not to substitute a view. Such powers can be exercised within the limits specified in the statute governing the exercise of power.

15.5 The review court does not sit in appeal over its own order. A rehearing of the matter is impermissible. It constitutes an exception to the general rule that once a judgment is signed or pronounced, it should not be altered. Hence, it is invoked only to prevent a miscarriage of justice or to correct grave and palpable errors.

16. To wit, through a review application, an apparent error of fact or law is intimated to the court, but no extra reasoning is undertaken to explain the said error. The intimation of error at the first blush enables the court to correct apparent errors instead of the higher court correcting such errors. At both the above stages, detailed reasoning is not warranted.

17. Having noticed the distinction between the power of review and appellate power, we restate the power and scope of review jurisdiction. Review grounds are summed up as follows:

17.1 The ground of discovery of new and important matter or evidence is a ground available if it is demonstrated that, despite the exercise of due diligence, this evidence was not within their knowledge or could not be produced by the party at the time, the original decree or order was passed.

17.2 Mistake or error apparent on the face of the record may be invoked if there is something more than a mere error, and it must be the one which is manifest on the face of the record. Such an error is a patent error and not a mere wrong decision. An error which has to be established by a long-drawn process of reasoning on points where there may conceivably be two opinions can hardly be said to be an error apparent on the face of the record.

17.3 Lastly, the phrase 'for any other sufficient reason' means a reason that is sufficient on grounds at least analogous to those specified in the other two categories.

18. Courts ought not mix up or overlap one jurisdiction with another Jurisdiction. Having noted the appellate and review jurisdiction of the Court, we will apply these principles to the impugned order to determine whether the High Court was within its power of review Jurisdiction or had exceeded it by reversing the findings, as if the High Court were sitting in appeal against the order dated 23.09.2022. We appreciate the above tabulated summary of the view taken in the Impugned order while doing so.

7. On hearing the learned counsels for the parties and on perusal of the materials on record, this Court finds that the points raised for review of the judgement and order under review are extensive and have already been prima facie dealt with in the judgement. The extent of review, as prayed for, appears to be under the garb of an appeal which requires hearing the matter afresh.
8. Considering the said facts, this Court finds that there is no error apparent on the face of the record, and also no other ground for review has been made out, which calls for review of the judgement (under review).
9. **RVW 150 of 2026 thus stands dismissed.**
10. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties after completion of all necessary formalities.

(Shampa Dutt (Paul), J.)