

Order-47 Review

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1. Application for review of judgment :-

(1) Any person considering himself aggrieved-

(a) by a decision on reference from a Court of Small Causes from which no appeal has been preferred,

(b) by a decree or order from which no appeal is allowed, or

(c) by a decision on a reference from a Court of Small Causes, and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the Court which passed the decree or made the order.

(2) A party who is not appealing from a decree or order may apply for a review of judgment notwithstanding the pendency of an appeal by some other party except where the ground of such appeal is common to the applicant and the appellant, or when, being respondent, he can present to the Appellate Court the case

on which he applies for the review. ¹ [Explanation.-The fact that the decision on a question of law on which the judgment of the Court is based has been reversed or modified by the subsequent decision of a superior court in any other case, shall not be a ground for the review of such judgment.]

1. Ins. by Act 104 of 1976, Sec. 92 (w.e.f. 1st February, 1977).

2. To whom application for review may be made :-

Repeated by the Code of civil Procedure (Amendment) Act, 1956 (66 of 1956), Section 14 .]

3. Form of application for review :-

The provisions as to the form of preferring appeals shall apply, mutatis mutandis, to applications for review.

4. Applications where rejected :-

(1) Where it appears to the Court that there is not sufficient ground for a review, it shall reject the application.

(2) Applications where granted.-Where the Court is of opinion that the application for review should be granted, it shall grant the same: Provided that-

(a) no such application shall be granted without previous notice to the opposite-party, to enable him to appear and be heard in support of the decree, or order, a review of which is applied for; and

(b) no such application shall be granted on the ground of discovery of new matter or evidence which the applicant alleges was not within his knowledge, or could not be adduced by him when the decree or order was passed or made, without strict proof of such allegation.

5. Application for review in Court consisting of two or more Judges :-

Where the Judge or Judges, or any one of the Judges, who passed the decree or made the order, a review of which is applied for, continues or continue attached to the Court at the time when the application for a review is presented, and is not or are not precluded by absence or other cause for a period of six months next after the application from considering the decree or order to which the application refers, such Judge or Judges or any of them shall hear the application, and no other Judge or Judges of the

Court shall hear the same.

6. Application where rejected :-

(1) Where the application for a review is heard by more than one Judge and the Court is equally divided, the application shall be rejected.

(2) Where there is a majority, the decision shall be according to the opinion of the majority.

7. Order of rejection not appealable-Objection for order granting application :-

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[(1) An order of the Court rejecting the application shall not be appealable; but not an order granting an application may be objected to at once by an appeal from the order granting the application or an appeal from the decree or order finally passed or made in the suit.]

(2) Where the application has been rejected in consequence of the failure of the applicant to appear, he may apply for an order to have the rejected application restored to the file, and, where it is provided to the satisfaction of the Court that he was prevented by any sufficient cause from appearing when such application was called on for hearing, the Court shall order it to be restored to the file upon such terms as to costs or otherwise as it thinks fit, and shall appoint a day for hearing the same.

(3) No order shall be made under sub-rule (2) unless notice of the application has been served on the opposite-party.

1. Subs. by Act 104 of 1976, Sec. 92 (w.e.f. 1st February, 1977).

8. Registry of application granted, and order for re-hearing :-

Where an application for review is granted, a note thereof shall be made in the register and the Court may at once re-hear the case or make such order in regard to the rehearing as it thinks fit.

9. Bar of certain application :-

No application to review an order made on an application for a review or a decree or order passed or made on a review shall be entertained.