



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF DECEMBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE S SUNIL DUTT YADAV

REVIEW PETITION NO. 284 OF 2024

IN

WRIT PETITION No.3012 OF 2023 (GM-CPC)

BETWEEN:

1. SMT. MEERA PATANKAR
WIFE OF LATE UDDHAV D. PATANKAR
AGED ABOUT 67 YEARS
RESIDING AT NO.5850
BELT LINE ROAD, NUMBER 13,
DALLAS, TEXAS - 75254
USA

2. YAMUNA PATANKAR
AGED ABOUT 34 YEARS
DAUGHTER OF LATE UDDHAV D. PATANKAR
RESIDING AT NO.15-492
LIMU STREET, PAHOA,
HAWAII - 96778
USA

PETITIONER NOS.1 AND 2
ARE REPRESENTED BY
THEIR POWER OF ATTORNEY HOLDER:
MR. AJIT KUMAR
SON OF LATE EGS MARAR
AGED ABOUT 75 YEARS
RESIDENT OF 403 RUDY
LUMBINI ROCKDALE APARTMENTS





SOMAJIGUDA,
HYDERABAD - 500 082.

... PETITIONERS

(BY SRI TAJI GEORGE, ADVOCATE)

AND:

1. PAVITHRA CONSTRUCTIONS PVT. LTD.,
COMPANY REGISTERED
UNDER THE COMPANIES ACT, 1956
HAVING ITS OFFICE AT UNIT NO.5,
2ND FLOOR,
KALPAVRUKSHA RESIDENCY,
NO.55/1 17TH CROSS
MALLESWARAM
BENGALURU - 560 055
REPRESENTED BY ITS
MANAGING DIRECTOR
MR. S. VENKATARAMAN,
AGED MAJOR.
2. DR. (MRS.) JYOTHI JAYAPRAKASH REDDY
NEE PATNAKAR
DAUGHTER OF LATE MR. DWARAKANATH
VISHWANATH RAO PATNAKAR
WIFE OF DR. JAYA PRAKASH REDDY
AGED ABOUT 75 YEARS
RESIDING AT 7643
SEATTLE DRIVE, LA MESA
CA 91941, USA
3. MRS. BINDU NARENDRA NEE PATANKAR
WIFE OF MR. NARENDRA
AGED ABOUT 74 YEARS
RESIDING AT 66, KANAKAPURA ROAD
BASVANGUDI
BENGALURU - 560 004.
4. MR. A ARUMUGHAM
SON OF LATE D. ARUNACHALAM



AGED ABOUT 80 YEARS
SENIOR PARTNER
ARU AND DEV CHARTERED ACCOUNTS
UNIT NO.315, RAHEJA CHAMBERS,
12, MUSEUM ROAD
BENGALURU - 560 001.

... RESPONDENTS

(BY SRI ABHINAV RAMANAND, ADVOCATE FOR R1)

THIS REVIEW PETITION IS FILED UNDER ORDER XLVII
RULE 1 READ WITH SECTION 114 OF THE CODE OF CIVIL
PROCEDURE, 1908, PRAYING TO REVIEW THE ORDER DATED
14.02.2023 PASSED BY THIS HON'BLE COURT IN W.P.
NO.3012/2023 AND ETC.

THIS REVIEW PETITION HAVING BEEN HEARD AND
RESERVED ON 18.09.2025 AND COMING ON FOR
PRONOUNCEMENT OF ORDERS, THIS DAY, THE COURT MADE
THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE S SUNIL DUTT YADAV

C.A.V. ORDER

(PER: HON'BLE MR JUSTICE S SUNIL DUTT YADAV)

This Review Petition has been filed seeking for review
of the order dated 14.02.2023 passed in
W.P.No.3012/2023. The Review Petitioner has sought for
revival and restoration of the writ proceedings and for
re-hearing of the petition on merits.



2. This court in W.P.No.3012/2023, in a writ petition filed seeking for calling for records in O.S.No.4217/2020 and for directing the Trial Court to consider the applications of the petitioner in I.A.No.1/2020 and I.A.No.2/2020 filed seeking interim injunction, disposed of the writ petition in terms of the following:

" After hearing the matter for sometime, submission is made on behalf of the petitioners that if the developers were to undertake not to encumber the owners' share for development of the property, the grievance would be redressed for the present.

2. Learned Counsel Sri Abhinav Ramanand appearing for respondent No.1 submits that the owners' share would be kept intact for the present.

3. In light of the same and in light of the stand of the petitioners, question of passing



any order as regards disposal of I.A.No.1/2020 and 2/2020 does not arise.

Liberty is however reserved to the petitioners, in the event, some other reliefs are required to move the trial Court by appropriate proceedings. Needless to state that in light of the stand of the petitioners, respondent No.1 is at liberty to develop the property, subject to the undertaking made above. Notice to respondents No.2, 3 and 4 is dispensed with as no relief is sought for against them. It is clarified that the undertaking of the respondents and the stand of the petitioners would hold good as regards the petitioners and respondent No.1 as the other respondents are not parties in the present proceedings. The submission of both sides that even as regards sharing agreement is concerned, parties are trying to settle amicably is taken on record.



Suit to be disposed off taking note of the applicable Guidelines issued by this Court relating to disposal of the old cases. Accordingly, petition is disposed off."

3. This Court taking note of the submission made on behalf of the petitioners had observed that the grievance of the petitioners would be redressed if the developers were to undertake not to encumber the owners share for development of the property and taking note of the submission of the learned counsel for respondent that the owners share will be kept intact, disposed of the writ petition.

4. In effect, the court taking note of the stand of the petitioners granted liberty to respondent no.1 to develop the property subject to the undertaking as found in the order above.

5. The writ petition itself was filed by the plaintiffs in the suit who are the review petitioners seeking for



consideration of I.A.-1/2020 and I.A.-2/2020 filed seeking interim injunction on priority. The petitioners had also sought for an order restraining respondent no.1, agents or persons claiming through or under them from interfering with the petitioner's possession over the schedule property and an order of restraint against respondent no.1 from creating third party interest or changing the nature of the schedule property or demolishing the building constructed.

6. The brief facts leading to the dispute on hand was that the Pattankar family consisted of first defendant-Udhav D. Patankar, the father, plaintiff-Mrs.Yamuna Patankar, the daughter and Mrs.Meera Pattankar, wife of Udhav Pattankar and the schedule property belongs to the joint family.

7. It is stated that in the partition, the property was allotted to the share of Mr.Udhav Pattankar. An arrangement was sought to be made to develop the property and deal with the same, but due to differences,



the same did not fructify. The demand for partition made by the daughter was not honoured by Mr.Udhav Pattankar.

8. It is submitted that Mr.Udhav Pattankar entered into a Joint Development Agreement and had undertaken to furnish 'No Objection Certificate' from all the coparceners. The registered Joint Development Agreement has been challenged in the suit O.S.6651/2019 filed by the daughter Yamuna Pattankar claiming half share in the schedule property, for division of the property by metes and bounds, for a declaration that the Joint Development Agreement executed by Mr.Udhav Pattankar in favour of the second defendant M/s.Pavithra Constructions Pvt. Ltd., was not binding on the plaintiffs share. Along with the suit, injunction applications were filed to restrain the defendants which included the developer, from demolishing the building and not to interfere with plaintiff's peaceful possession. Another application was filed for restraining the defendants from alienating or creating third party interest.



9. The non-consideration of interlocutory applications gave raise to filing of the writ petition seeking for direction to dispose off the applications expeditiously on priority. Admittedly, writ petition came to be disposed off in terms of the observations extracted above.

10. The review petition came to be filed specifically contending that the General Power of Attorney holder of the petitioner was not present in court as he was not aware of the listing and hearing of the matter and was not aware of the concession made by the counsel conceding that constructions were permitted to go on though the petitioners had objected to construction being taken up by the Developer which was the very relief sought for in O.S.No.4217/2020 and the Interlocutory applications. It was further contended that the concession made virtually rendered the suit infructuous. It was asserted that the petitioners were worse off than if the writ petition were to be dismissed and accordingly had sought for review of the



order dated 14.02.2023 and restoration of the writ petition.

11. The Developer had filed statement of objections to the review petition contending: that there was inordinate delay of One and Half years in filing the Review Petition, grounds of review under Order 47 Rule 1 was not made out; that review petition could be filed only by the Advocate who was representing in the earlier round of litigation, and other contentions on merits were raised. It was also contented that there was no concession made by the counsel for the petitioners, and that construction was at an advanced stage.

12. Heard both sides.

13. It is a settled legal position that an order could be reviewed on grounds enumerated under Order 47 Rule 1 CPC. Amongst the grounds that would permit review would include discovery of new and important matter not within his knowledge or "for any other sufficient reason."



14. The specific ground for review made out in the grounds is that concession made by the counsel was not with their consent and had rendered the review petitioners remediless causing serious prejudice to the petitioners disentitling them to contest the suit on its merits. It is further submitted that the General Power of Attorney holder was not aware of such concession till he was informed by his counsel after the order was passed. If the concession made by the counsel exceeds the express or implied authority of the client and an order is passed on the basis of such concession without the knowledge of the litigant, the effort to set aside such order by way of review must be permissible. The ground made out could be stated to fall within the category of discovery of new and important matter which was not within his knowledge or within the other ground viz., "other sufficient reason."

15. It would be relevant to notice the observations of the Apex Court in the case of ***Himalayan Cooperative***



Group Housing Society v. Balawan Singh and Other¹.

In an identical factual matrix, the Supreme Court was dealing with a case where the Cooperative Housing Society had expelled the respondents from its membership for having defaulted in paying the principal amount to the Society towards allotment of Residential Quarters. Orders of expulsion having been upheld by the Registrar of Cooperative Societies and Revisional Authority, said orders were called in question before the High Court. In such proceedings, on request made by the respondents seeking issuance of directions to the Society for consideration of their request to construct and allot additional Quarters/Apartments to them, the counsel appearing for the Society conceding such request, the High Court directed the Society to construct additional Quarters/Apartments and allot them to the respondents.

16. Review Petitions were filed by the Society claiming that it had not authorised the Counsel to make

¹ ***(2015) 7 SCC 373***



any concession in favour of the respondents. The same having been dismissed, order was challenged before the Apex Court. The observations made at para 32 would indicate that the admission of fact made by a counsel could be accepted unless it could be construed that the counsel was not authorised by the principal to make such admission. The Apex Court has observed that a Lawyer generally is not authorised to make an admission which would directly surrender or conclude the substantial legal rights of the client.

17. The observations made at para 32 reads as hereunder:

"32. Generally, admissions of fact made by a counsel are binding upon their principals as long as they are unequivocal; where, however, doubt exists as to a purported admission, the court should be wary to accept such admissions until and unless the counsel or the advocate is authorised by his principal to make such admissions. Furthermore, a client is not bound



by a statement or admission which he or his lawyer was not authorised to make. A lawyer generally has no implied or apparent authority to make an admission or statement which would directly surrender or conclude the substantial legal rights of the client unless such an admission or statement is clearly a proper step in accomplishing the purpose for which the lawyer was employed. We hasten to add neither the client nor the court is bound by the lawyer's statements or admissions as to matters of law or legal conclusions. Thus, according to generally accepted notions of professional responsibility, lawyers should follow the client's instructions rather than substitute their judgment for that of the client. We may add that in some cases, lawyers can make decisions without consulting the client. While in others, the decision is reserved for the client. It is often said that the lawyer can make decisions as to tactics without consulting the client, while the client has a right to make decisions that can affect his rights.



18. In the present case, the writ petition was filed seeking for a direction to dispose off I.A.-1/2020 and I.A.-2/2020.

19. I.A.-1/2020 was with a prayer to restrain the defendants including the builder from entering the schedule property and demolishing the building, cutting the trees and not to interfere with the peaceful possession and enjoyment of the plaintiffs. I.A.-2/2020 was filed seeking an order to restrain the defendants from alienating or creating third party interest over the schedule property.

20. It would be necessary to notice that the prayer of the suit itself was to declare the Joint Development Agreement executed in favour of the Developer as not binding on the petitioner's share.

21. In the context of the relief in the suit, and the prayers in the interlocutory application and the prayer in the writ petition, question is whether the concession made



by the counsel could be: 1) be construed to be concession which was impliedly permitted by the principal; 2) whether such concession has the effect of prejudicing the prayer in the suit itself.

22. The writ petition itself was disposed off recording submission made on behalf of the petitioners by their counsel that they would not be prejudiced if developer were to undertake not to encumber the owner share of the developed property. The said concession having been responded to by the counsel for the Developer who stated that owners share would be kept in tact, the petition was disposed of.

23. When the prayer in the writ petition was only to pass a direction to dispose of the I.A.'s expeditiously, the writ petition being disposed of on the concession by the counsel whereby the owner's share was kept in tact and in effect permitting the Joint Development Agreement to be



otherwise implemented has taken away the substratum of the suit.

24. The suit for partition had sought for a declaration that the Joint Development Agreement itself was not binding on the petitioners. By the concession made, the validity of the Joint Development Agreement which was sought to be questioned is permitted to be implemented except against the owner's share. Such a consequence has definitely prejudiced the prayer in the suit.

25. A counsel also owes a fiduciary duty to his client. In the present case, it could be certainly stated that the counsel did not have implied power to make a concession as regards subject matter of the suit in a proceedings in a writ petition which merely related to issuance of a direction to dispose of the pending interlocutory applications.

26. Accordingly, the court finds that the assertion of the petitioner that the counsel did not have express or



implied power to make a concession as noticed in the above petition and such concession resulting in an order which came to his knowledge subsequently was a ground to review the order requires to be accepted. The ground made out would fall within the category of grounds available in the former part of the statutory provision relating to discovery of an important matter subsequently and also on the ground of any other substantial cause found in the latter part of the same statutory provision.

27. The counsel for the Developer has relied on the judgment of the Apex Court in ***Vimaleshwar Nagappa Shet v. Noor Ahmad Shariff and Others***². However in the facts of the said case, Apex Court noticed the finding of the High Court that the counsel had agreed with the instructions of the plaintiffs.

28. The Apex Court advertent to the factual matrix has specifically observed that the concession was in

² (2011) 12 SCC 658



relation to the rate per square feet of the land which was the subject matter of the suit for specific performance. It was further noted that the High Court had recorded that this was pursuant to instruction of the plaintiff.

29. However, in the present case the concession made was not in relation to the subject matter of the writ and when a concession relates to outside the subject matter of the proceeding a concession sought to be made in relation to the suit ought to have been backed by an express instruction of the party to make a concession. In such a context there could be no presumption of implied consent.

30. However, in the present case, the prayer in the suit and the interlocutory applications referred to above would indicate the stand of the plaintiff in repudiating the Joint Development Agreement and the concession made saving the Joint Development Agreement could be stated



to be made in the teeth of the express intention of the plaintiff as made out in the pleadings of the suit.

31. Once the plaintiff himself has stepped in to assert a stand consistent with the pleadings in the suit, it could be inferred that there was no permission by the petitioner to the counsel to take a stand inconsistent with such intention. It is the burden on the counsel to have demonstrated that contrary to the intention in the pleadings there was express or implied permission to take a different stand.

32. The judgment in ***Om Prakash v. Suresh Kumar***³ relied upon by the Developer was dealing with an entirely different factual matrix. The Apex Court has observed that the statement was made in respect of the subject matter of the proceedings in which the counsel was engaged and instructed to appear. Further it was observed that it was not the case of the appellant Landlord

³ (2020) 13 SCC 188



that he had expressly instructed his counsel not to make such concession.

33. The present factual matrix is completely different. The prayer in the writ was only for expeditious disposal of the applications and the power of the counsel could be stated to extend to such relief and not more. If the Counsel were to travel beyond the relief sought for in the writ and make a concession as regards the subject matter of the suit, then express authorisation ought to have been obtained.

34. The only other contention raised by the counsel for the developer was that the present review petition by a different counsel was not maintainable. It was submitted that the review petition ought to have been filed by the same counsel who had filed the writ petition.

35. Though the Apex Court in the case of ***Tamilnadu Electricity Board and Another v. N.Raju Reddiyar and***



Another⁴ did observe that the practice of filing repeated Review Petitions and Clarification Petitions by changing of Advocates was deprecated. However, the context in which such observation is made would be of relevance. The court felt that review petition cannot be an attempt for rehearing of the matters again on merits and the following observations were made:

"1....It is salutary to note that the court spends valuable time in deciding a case. Review petition is not, and should not be, an attempt for hearing the matter again on merits. Unfortunately, it has become, in recent time, a practice to file such review petitions as a routine; that too, with change of counsel, without obtaining consent of the Advocate-on-Record at earlier stage.

2. Once the petition for review is dismissed, no application for clarification should be filed, much less with the change of the Advocate-on-Record. This practice of changing the advocates and filing repeated petitions

⁴ (1997) 9 SCC 736



should be deprecated with a heavy hand for purity of administration of law and salutary and healthy practice."

36. However, the said observation of the Apex Court was in the context of an attempt to re-hear the matter on merits and on fresh grounds through a fresh counsel.

37. In the present case, it should be noticed that the review petitioner had filed an application seeking for permission to appear as party-in-person. It was stated by the party-in-person when making submission regarding the application that the difficulty in engaging the same counsel was in light of the stand that the counsel who has appeared in the writ petition has made an impermissible concession.

38. This court itself had granted permission for engaging a separate counsel by order dated 04.11.2024. The order reads as follows:



" The review petition No.284/2024 has been filed seeking for review of the order dated 14.02.2023 passed by this Court in W.P.No.3012/2023. This Court had disposed off the writ petition taking note of the submission made on behalf of the petitioners that if the developers were to undertake not to encumber the owners' share for development of the property, the grievance would be redressed for the present.

The present review petition has been filed stating that the observations regarding the concession made on behalf of the petitioners was without the consent or instruction of the petitioners and accordingly, they have sought for review of the order.

Perusal of the review petition would indicate that such stand is taken by the review petitioners at paragraph No.5.

I.A.No.2/2024 has been filed seeking for permission for GPA holder of the petitioners to appear as party-in-person. The GPA holder submits that the difficulty in engaging a counsel



in this case is that, the present proceedings is the review petition and the petitioners are to engage the same counsel who appeared in the writ proceedings and in light of the stand that the concession made by the petitioners was without the review petitioners' consent, the review petitioners are placed in a piquant situation.

In light of the above, the review petitioners are permitted to engage any other counsel apart from the counsel who appeared in the writ proceedings. However, the name of the counsel who appeared in the writ proceedings on behalf of the petitioner also to be notified in the cause list.

Re-list this matter on 15.11.2024. If vakalath is filed in the Registry before such date, office to put up the vakalath and show the name of new counsel representing the petitioners."

39. In the peculiar facts of the case, when a review petition is filed to set aside an order passed pursuant to a



concession which the party contends is without authorisation, the court could permit engagement of another counsel in the Review Petition.

40. The observations of the Apex Court must be read in the context therein and cannot be construed to be a bar where court itself permits engagement of another counsel in a review proceeding.

41. Similarly, the judgment in ***Nagarjuna Residency v. Vishwas and Others***⁵ relates to the court having observed the limitation of a different counsel to re-agitate the matter in the guise of a review. However, as observed supra, the present case deals with an entirely different factual matrix where the court itself has permitted the engagement of a different counsel.

42. Accordingly, the following:

ORDER

The Review Petition is allowed. The order passed in W.P.No.3012/2023 is recalled and the petition placed

⁵ R.P.No.100003/2022



before the Regular Bench for disposal in accordance with law.

In light of the discussion as made above, the Review Petitioner is at liberty to engage a different counsel in the writ proceedings and if Vakalath is filed, same to be taken on record.

ORDER ON I.A.-1/2024:

I.A.-1/2024 has been filed seeking condonation of delay of 480 days in filing the review petition.

The application filed by the General Power of Attorney Holder seeks to make out sufficient cause for condoning the delay. There is a detailed narration of facts stating that the General Power of Attorney Holder who represents the petitioners was not aware of the outcome of the proceedings on 14.02.2023. It is submitted that he came to know of the order only when the counsel on record informed him over phone. It is further submitted



that the contents of the order came to his knowledge only when he obtained copy of the order.

It is further submitted that as petitioners 1 and 2 are residing in USA and contents of the order were required to be explained to the petitioners and thereafter decision to take appropriate steps was taken, which itself took time.

While arguing the matter it was submitted by the counsel for the developer that the ground made out for delay would not stand legal scrutiny.

The court is of the view that the delay is well explained. Even if delay is not explained with reference to every day's delay, however explanation made requires acceptance. The reason assigned including that he was unaware of the order till the counsel informed him telephonically is a plausible explanation and can be accepted. The further assertion that after coming to know of the order and obtaining copy, there was delay in approaching the court as the petitioners who were in the



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United States of America had to decide on the appropriate course of moving forward and then communicate the same to the Power of Attorney Holder which process took time is also sufficient cause for condoning the delay. The very nature of grievance of the petitioners going to the root of the matter the court ought not to take a technical view and in light of the substantive rights involved, it would be appropriate to condone the delay.

Accordingly, the application (I.A-1/2024) is allowed and the delay in filing the review petition is condoned.

Sd/-
(S SUNIL DUTT YADAV)
JUDGE

NP