



INTERNATIONAL JOURNAL OF CREATIVE RESEARCH THOUGHTS (IJCRT)

An International Open Access, Peer-reviewed, Refereed Journal

Review Under The Code Of Civil Procedure, 1908

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Abstract

The Code of Civil Procedure, 1908 (CPC) provides a comprehensive framework for civil litigation in India. One of its most important features is the right of appeal, which ensures that a party dissatisfied with a judgment can approach a higher court for review and correction. This paper studies the concept of review under CPC, their nature, scope, types, and limitations. It also highlights the importance of review in safeguarding the principles of natural justice and fairness. The paper adopts a **doctrinal research methodology**, relying on statutory provisions, judicial precedents, and scholarly commentary to critically analyse the law of review. The study concludes by suggesting reforms to reduce delays and misuse of the system, while ensuring justice is not compromised.

Keywords : Civil Procedure Code (CPC), Review, Section 114, Order 47, Error Apparent, Judicial Correction, Finality of Judgment.

Objectives of the Study

1. To analyze the legal foundation of review under Section 114 and Order 47 CPC.
2. To examine judicial interpretations and limits imposed by the courts.
3. To distinguish review from appeal and revision.
4. To assess whether the narrow scope of review promotes or hinders justice.

Research Methodology

This research is based on **doctrinal methodology**. It involves a study of primary sources such as the Code of Civil Procedure, 1908, and leading judgments of the Supreme Court and High Courts. Secondary sources such as textbooks, commentaries, journal articles, and online legal databases have also been used. The aim of this methodology is to analyze and interpret the existing law, identify gaps, and suggest reforms.

Introduction

The Right of review is granted by Civil Procedure Code as a remedy to be sought for an applied under special circumstances and conditions. The objective of this right is to correct the error or any mistake made in the decision of the court. This right is subjected to many limitations and conditions mentioned in Order 47 of the Civil Procedure Code.

Grounds for Review (Order 47, Rule 1 CPC)

An application for review can be filed on the following specific grounds:

1. **Discovery of New and Important Matter or Evidence:** The applicant must show that the new evidence was not within their knowledge or could not be produced at the time of the original decree or order, despite exercising due diligence.
2. **Mistake or Error Apparent on the Face of the Record:** This refers to an error that is self-evident and does not require a long process of reasoning or re-argument of the case to be detected. An erroneous decision on merits does not qualify as an error apparent on the face of the record.
3. **"Any Other Sufficient Reason":** This phrase is generally interpreted to mean reasons analogous to the other two grounds specified in the rule.

Key Differences: Reference, Review, and Revision

While Reference, Review, and Revision may appear similar, they serve distinct purposes and are invoked under different circumstances. The table below highlights the key differences:

Aspect	Reference	Review	Revision
Initiated By	Subordinate court (suo motu)	Aggrieved party	Aggrieved party or suo motu by the High Court
Purpose	To clarify doubts on questions of law	To correct errors in the judgement or order	To correct jurisdictional errors by subordinate courts
When Applied	During the pendency of the case	After the judgement or order is passed	After the decision of the subordinate court
Nature of Error	Legal question or validity of legal provisions	Factual or legal error on the face of the record	Jurisdictional error
Limitation Period	No specific time limit mentioned	30 days from the decree or order	90 days from the order or decree

Review in Criminal Law

In criminal law, review is a legal remedy that allows a party to challenge the correctness of a judicial order passed against them. The procedure for filing a review in criminal law is provided under Section 397 of the Code of Criminal Procedure, 1973.

According to Section 397, a person can apply for a review of any order made in any criminal proceeding if he considers himself aggrieved by the order. The review can only be sought on the grounds of discovery of new and important matter or evidence, which was not within the knowledge of the applicant or could not be produced by him in the original proceedings.

It is important to note that the scope of review under Section 397 is limited and does not extend to re-examination of the evidence or re-appreciation of facts that were considered by the court in the original proceedings. The review proceedings are summary in nature and are not intended to be a substitute for an appeal. They are designed to correct judicial errors that may have occurred in the original proceedings, and not to re-adjudicate the matter afresh.

Revision in Criminal Law

Revision in Criminal Law: In criminal law, revision is a legal remedy that allows a superior court to examine the legality and propriety of an order passed by a subordinate court. The procedure for filing a revision in criminal law is provided under Section 397 and Section 401 of the Code of Criminal Procedure, 1973.

According to Section 397, a person can apply for a revision of any order made in any criminal proceeding if he considers himself aggrieved by the order. The revision can only be sought if the order is considered to be illegal or improper. The power of revision under Section 397 is exercised by the High Court in cases where the subordinate court has passed an order in a criminal proceeding.

Time Limit to File Review

- **30 days:** For most civil matters.
- **60 days:** For judgments passed by a High Court.
- **30 days:** In cases involving the death penalty.

The court may allow a delay in filing the review if the applicant provides a reasonable justification under the **Limitation Act**.

No Second Review (Rule 9)

Once a court has reviewed a judgment and issued a decision, no second review is permitted on the same matter. Rule 9 ensures finality and prevents repetitive review applications.

Supreme Court Review (Article 137)

Under **Article 137 of the Constitution**, the **Supreme Court of India** has the power to review its own judgments. This authority is separate from the CPC and is derived directly from the Constitution.

The Supreme Court uses this power to correct substantial errors and maintain justice as the nation's highest court.

Landmark Case Laws on Review

1. **Sow Chandra Kante v. Sheikh Habib (1975):** The Supreme Court held that the **review process is not meant to provide a second innings** for the losing party. The objective of Section 114 is not to re-hear the case but to correct clear and obvious errors that are apparent on the face of the record.
2. **Northern India Caterers Ltd. v. Governor of Delhi (1980):** The Supreme Court emphasised that **review proceedings are not to be equated with an appeal**. A judgement will not be reviewed merely because the losing party thinks it was wrongly decided. Only glaring omissions or errors of law justify review.

Limitations of Review Power

- Not a substitute for appeal.
- Does not permit reappraisal of evidence.
- Cannot be filed to correct minor errors or dissatisfaction with judgment.
- Review jurisdiction is a *creation of statute*; not an inherent power.

Key Findings and Analysis from Research Papers

Statutory Basis and Object:

- The right to review is a substantive right granted by **Section 114** of the CPC, while the procedure and conditions are detailed in **Order XLVII**.
- The primary object is to enable a court to look at its own verdict again to correct a patent error or an oversight.
- It is an exception to the legal principle of *functus officio*, which generally means that once a court has passed a final judgment and signed it, it lacks the power to alter it.

Conclusion

The review process under the Civil Procedure Code, 1908, is a crucial remedy designed to prevent miscarriages of justice due to clerical errors, misinterpretation of facts, or overlooked evidence. It allows courts to correct their judgements where a clear error has been made, ensuring fairness and justice in civil proceedings.

However, the review is not an appeal mechanism and cannot be used to re-litigate the case. The process is strictly regulated to prevent abuse and ensure that it is only used in exceptional circumstances. By maintaining a clear set of guidelines and limitations, the CPC ensures that the review process serves its purpose without undermining the principle of finality in litigation.

References / Bibliography

1. The Code of Civil Procedure, 1908
2. The Limitation Act, 1963
3. Mulla, Code of Civil Procedure
4. C.K. Takwani, Civil Procedure
5. Relevant Supreme Court judgments (as cited above)