

**THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI**

**I.A.No.2 of 2024 and Review I.A.No.3 of 2024 in both the**  
**C.R.P.Nos.242 of 2024 and 361 of 2024**

**COMMON ORDER:**

The applications for condonation of delay i.e. I.A.No.2 of 2024 and review application i.e. I.A.No.3 of 2024 in both the C.R.Ps are filed.

2. Any objection to the I.A.No.2 of 2024 in both the matters has not been filed by the respondents.

3. The review is I.A.No.3 of 2024 in both the matters.

4. The review petitioners are respondents 1 to 3 in C.R.P.No.242 of 2024 and C.R.P.No.361 of 2024. They are challenging the judgment and order dated 18.06.2024 passed in C.R.P.

5. The respondents 1 and 2 in the review petition are the petitioners in C.R.P. The respondents 3 to 6 in review petition are respondents 4 to 7 in C.R.P.

6. The respondents 1 and 2 herein filed O.P.No.607 of 2017 in the court of the Principal District Judge at Visakhapatnam

under Section 23 of the A.P.Societies, Registration Act, 2001 for the following reliefs:

- “a) For conducting detailed enquiry as enumerated under Section 23 of the Societies Registration Act and handover the properties and operation of bank accounts of both the petitioner societies to the Office bearers who a deserving to manage them by considering the events took place after O.P.s 1053/2007 and 1424/2007 for **GUM Society** and O.P. 786/2008 for **TAPP Society**;*
- b) for a declaration that the 1<sup>st</sup> respondent and his henchmen obtained Certified copies of the renewals from the 5th Respondent on 18-02-2017 for GUM SOCIETY and on 17-03-2017 for TAPP SOCIETY by incorporating the first respondent and his henchmen's names as Office Bearers by playing fraud*
- (c) For consequential relief of injunction restraining the respondents 1 to 3 and their henchmen from using the said certified copies obtained from the 5th respondent before any public officers, as well as bankers i..e. D5 to D7 to avoid unwarranted nuisance; D4 no even as proforma party*
- (d) for costs of this petition and*
- (e) for such other relief/reliefs, which the honourable Court deems fit and proper under the circumstances of the case;”*

7. In the said O.P, the review petitioners (respondents 1 to 3 in O.P.) filed I.A.No.612 of 2023, that the O.P was barred by the provisions of Order II Rule 2 C.P.C. The application was allowed on 14.12.2023. Consequently, the O.P.No.607 of 2017 was dismissed on the same date.

8. Challenging the order dated 14.12.2023, the present respondents 1 and 2 filed the C.R.P. No.242 of 2024 and C.R.P.No.361 of 2024, which have been allowed by common order dated 18.06.2024.

9. The C.R.P(s) were allowed after observing in para-3 as under:

*“3. Notice to respondents was ordered in both the CRPs but respondents 1 to 3 refused the notices and hence the service was deemed effected.”*

10. Sri K.Chidambaram, learned senior advocate assisted by Sri G.Yaswanth, learned counsel for the review petitioners, submits that in the C.R.P(s), the address of the review petitioners was incorrectly shown as “Door No.39-3-104/1-3, Sector-9, Muralinagar, Visakhapatnam”. The correct address is “Door No.39-9-104/1-3”. He has drawn the attention of the court to the order passed by the learned IV Additional District Judge, in O.P.No.607 of 2007, in which the address shows is “Door No.39-9-104/1-3, Sector-9, Muralinagar, Visakhapatnam”, which was submitted by the respondents 1 and 2 herein (petitioners of O.P). He submits that the notices in C.R.P. were not served. They were not refused by the review petitioners. However, the writ

court, considering that the notices were refused, considered deemed service and decided the C.R.P(s) on merit, *ex parte*. The review petitioners had no opportunity of hearing for want of service.

11. In the C.R.P one memo of proof of service was filed by the learned counsel for the C.R.P, dated 28.02.2024. The memo of proof of service reads as under:

*"It is submitted that vide order dated 13.02.2024, this Hon'ble Court was pleased to direct the petitioner to take out personal notice on the respondents.*

*It is submitted that as per the orders of this Hon'ble Court, I had taken out personal notice on respondents in the above Civil Revision Petition through registered post. The notices sent to respondents Nos.1 to 3 were returned with endorsement '**Item Returned Refused**'. The notice sent to respondents No.4 to 7 were successfully served on them. The petitioner is herewith filing the office copy of the personal notice, cop of the postal receipts and **online tracking reports for the kind perusal of this Hon'ble court**'.*

12. As per the track consignment report, annexed to the memo dated 28.02.2024, the item was delivered to the sender on 23.02.2024.

13. Sender is learned counsel for the petitioners in C.R.P(s). But the registered envelopes, from which the address mentioned thereon could be known to the writ court, was not brought on record with the memo dated 28.02.2024. The counsel for the

petitioners(in C.R.P) did not file the registered post letters, which were received back by him. He filed only the track consignment report to show refusal.

14. Considering the memo of proof of service dated 28.02.2024, this Court ordered that there was refusal and hence service was deemed effected on the respondents 1 to 3 in C.R.P(s).

15. Before this Court also, learned counsel for the petitioners in C.R.P. emphasized the report dated 20.02.2024 'item returned refused', as in the track consignment report, which did not show, to what address, items were sent.

16. In the present Review Petition also, learned counsel for the respondents, Sri Sanjay Suraneni, filed memo on 09.09.2024, bringing on record the postal registered envelopes and based therein, emphasized that the notices were refused.

17. On perusal of the C.R.P(s), it is evident that the address mentioned in the C.R.P(s), is not the same as was given in O.P.No.607 of 2007. The address given is incorrect.

18. A perusal of the registered notices sent to the review petitioners/respondents 1 to 3 in C.R.P(s), shows that in the address '3' was mentioned. In one registered post letter to respondent No.2, it was corrected by overwriting as '9', but as to when and by whom it was so done, is not evident. In respect to respondent No.3 also there is cutting and overwriting and in respect of respondent No.1(review petitioner No.1) '3' is mentioned. In any way, mere correction in postal envelopes would not be sufficient. Firstly, the address given in C.R.P(s) which mentioned '3' ought to have been got corrected and fresh notice ought to have been got issued at the correct address.

19. Learned counsel for the petitioners in C.R.P, could not answer the query of the court as to when the registered letters were received back by him on 23.02.2024 itself, as to why those letters were not brought on record in C.R.P(s)., though he filed memo dated 28.02.2024 and bringing on record the track consignment report only.

20. This Court is satisfied that, the review petitioners had no opportunity of hearing in the C.R.P, for want of service. Unless the letter/notices were sent to the correct address, it could not be

said that there was refusal by the correct person/party in C.R.P. There was no occasion for deemed service by refusal.

21. The review petitioners were not heard in C.R.P(s).

22. The order dated 18.06.2024 was thus passed in violation of the principles of natural justice, without opportunity of hearing to the review petitioners(respondents 1 to 3 in C.R.P(s)).

23. In ***Koushik Mutually Aided Cooperative Housing Society vs. Ameena Begum***<sup>1</sup>, the Hon'ble Apex Court has held as under in Para- 13:

***“ 13. As against the ex-parte decree, a defendant has three remedies available to him. First, is by way of filing an application under Order IX Rule 13 CPC seeking for setting aside ex-parte decree; the second, is by way of filing an appeal against the ex-parte decree under Section 96(2) of the CPC and the third, is by way of review before the same court against the ex-parte decree.”***

25. In ***Lawyers Co-operative Housing Society Limited., Agra vs. Sri Krishna Grah Nirman Samiti Ltd., Agra and others***<sup>2</sup>, which was a case for setting aside the ex parte decree under Order IX rule 13 CPC, it was held that the defendant is entitled to get the decree set aside under Order IX Rule 13 CPC,

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<sup>1</sup> 2023 SCC Online SC 1662

<sup>2</sup> 2002 SCC OnLine All 538x

if he satisfies the court that the summon was not duly served on him and he had sufficient cause for his absence.

26. In **Shivdev Singh & others vs. State of Punjab & others**<sup>3</sup>, the Constitution Bench of the Hon'ble Apex Court held as under:

*“10. The other contention of Mr. Gopal Singh pertains to the second order of Khosla, J., which in effect, reviews his prior order. Learned counsel contends that [Art. 226](#) of the Constitution does not confer any power on the High Court to review its own order and, therefore, the second order of Khosla, J., was without jurisdiction. It is sufficient to say that **there is nothing in [Art. 226](#) of the Constitution to preclude a High Court from exercising the power of review which inheres in every court of plenary jurisdiction to prevent miscarriage of justice or to correct grave and palpable errors committed by it. Here the previous order of Khosla, J., affected the interests of persons who were not made parties to the proceeding before him. It was at their instance and for giving them a hearing that Khosla' J. entertained the second petition. In doing so, he merely did what the principles of natural justice required him to do. It is said that the respondents before us had no right to apply for review because they were not parties to the previous proceedings. As we have already pointed out, it is precisely because they were not made parties to the previous proceedings, though their interests were sought to be affected by the decision of the High Court, that the second application was e entertained by Khosla, J.”***

27. The common order dated 18.06.2024, under review in both the review petitions, is set aside.

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<sup>3</sup> 1961 SCC OnLine SC 29



28. The applications for condonation of delay i.e. I.A.No.2 of 2024 and review application i.e. I.A.No.3 of 2024 in both the C.R.P(s) are allowed.

29. Let the C.R.P(s) be listed for admission/ hearing before the appropriate Bench on 21.10.2024.

30. Now the review petitioners have the notice of the C.R.P(s). No fresh notice need be issued to the review petitioners (respondents 1 to 3 in C.R.P(s)).

31. The petitioners of C.R.P(s) shall get the address corrected by filing appropriate application in C.R.P(s).

32. The review petitioners shall appear in C.R.P(s) through counsel on the date fixed.

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**RAVI NATH TILHARI, J**

Date: 23.09.2024

**Note:**

**L.R.Copy to be marked.**

**B/o.**

**Pab**

**\* THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI**

**+ I.A.No.2 of 2024 and Review I.A.No.3 of 2024 in both the**  
**C.R.P.Nos.242 of 2024 and 361 of 2024**

**%Dated: 23.09.2024**

# 1. Kilari Anand Paul and two others ..... Petitioners  
and

\$ 1.The Ancient Pattern Pentecostal Church (TAPPC Society)

Represented by its President, Smt.Kilari Esther Rani and another

..... Respondents

! Counsel for the Review Petitioners : Sri K.Chidambaram,  
Senior Counsel assisted by  
Sri G.Yaswanth, learned counsel

^ Counsel for the Respondents : Sri Sai Sanjay Suraneni

< GIST :

> HEAD NOTE :

? Cases referred :

<sup>1</sup> 2023 SCC Online SC 1662

<sup>2</sup> 2002 SCC OnLine All 538

<sup>3</sup> 1961 SCC OnLine SC 29

**THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI**

**I.A.No.2 of 2024 and Review I.A.No.3 of 2024 in both the**  
**C.R.P.Nos.242 of 2024 and 361 of 2024**

Between:

1. Kilari Anand Paul and two others ... Review Petitioners

and

1.The Ancient Pattern Pentecostal Church  
(TAPPC Society) Represented by its President,  
Smt.Kilari Esther Rani and another

..... Respondents

**DATE OF ORDER PRONOUNCED: 23.09.2024**

1. Whether Reporters of Local newspapers  
may be allowed to see the Judgments? Yes/No
2. Whether the copies of judgment may be  
Marked to Law Reporters/Journals. Yes/No
3. Whether Their Lordship wishes  
to see the fair copy of the Judgment? Yes/No

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**RAVI NATH TILHARI, J**