

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. _____ OF 2026
(Arising out of SLP(C) No.17342 of 2024)

**THE KERALA FINANCIAL CORPORATION, REPRESENTED BY
ITS MANAGING DIRECTOR & ANR.**

APPELLANTS

**A1 : THE KERALA FINANCIAL CORPORATION, REPRESENTED
BY ITS MANAGING DIRECTOR**

**A2 : THE BOARD OF DIRECTORS, REPRESENTED BY ITS
CHAIRMAN**

VERSUS

PREMARAJ M.A. & ORS.

RESPONDENTS

R1 : PREMARAJ M.A.

R2 : ASOK KUMAR N.

R3 : BHAKTHA MEERA K.

R4 : N. RAMANANDA PANICKAR

R5 : BASHEER T. MUSTHAFA

R6 : RAVEENDRAN NAIR

R7 : RAMACHANDRAN NAIR

R8 : SAKUNTHALA C.

R9 : K.S.V. NAYAKAM (DEAD)

R10 : AMRUTHAM T.C.

R11 : JAYACHANDRA SARMA G.

R12 : SEBASTIAN T.J.

R13 : N. VASUDEVAN

R14 : P. RAMAN PANICKER

R15 : M. SANKAR SEN

R16 : P.D. PRASAD

R17 : G.S. CHANDRASEKHARAN

R18 : SREELATHA SUKUMAR

R19 : G. RAVENNDRA NAIK

R20 : N.G. DIVAKARAN

R21 : R. GOPINATHAN NAIK

R22 : K.E. PADMAKHA NAIK

R23 : M. KATHIRKUNJU

R24 : K.R. RAJAGOPAL

R25 : K.S. SASEENDRA

R26 : M. SHAJIHAN

R27 : K.M. JAYALEKSHMI

R28 : V.M. CHEKKU

R29 : K.P. ANNAMMA

R30 : THE UNION OF INDIA

R31 : SANJEEV KAUSHIK

R32 : THE EMPLOYEE PROVIDENT FUND ORGANIZATION,
REPRESENTED BY ITS REGIONAL COMMISSIONER

R33 : STATE OF KERALA

O R D E R

Heard Mr. V. Chitambaresh, learned senior counsel for the appellants and Mr. P.V. Dinesh, learned senior counsel for the respondents no. 1 to 5.

2. Application for substitution to bring on record the legal representatives of deceased respondent no.9 is allowed. Cause title

be amended accordingly.

3. Leave granted.

4. The present appeal arises out of the impugned order dated 25.03.2024 passed by the Division Bench of the High Court of Kerala at Ernakulam in R.P. No.656 of 2023, whereby the Division Bench has reviewed and recalled its earlier judgment dated 23.03.2023 in Writ Appeal No.545 of 2023 and has directed that it be listed along with the other connected and pending Writ Appeals.

5. Learned senior counsel for the appellants submitted that the impugned order is absolutely unsustainable in law. It was contended that, once on merits the judgment had been passed by the Division Bench of the High Court, the ground that similar Writ Appeals are admitted and pending and not considered, would not be a ground for recall. It was further contended that at best, in the other matters, the Coordinate Bench would have had the jurisdiction either to agree with the order passed by the said Division Bench or to refer the matter to a larger Bench, and thereafter, it was contended that the party aggrieved would have had the liberty to move before this Court in accordance with law assailing the order either way but recalling it on the ground that similar matters are still pending and yet unadjudicated can never be a ground. He relied upon a decision of two-Judge Bench of this Court in ***Budhia Swain and Others v Gopinath Deb and Others* (1999) 4 SCC 396** wherein this Court held as under:-

“6. What is a power to recall? Inherent power to recall its own order vesting in tribunals or courts was noticed in *Indian Bank Vs. M/s Satyam Fibres India Pvt. Ltd.* 1996 (5) SCC 550. Vide para 23, this Court

has held that the courts have inherent power to recall and set aside an order

- (i) obtained by fraud practised upon the Court,
- (ii) when the Court is misled by a party, or
- (iii) when the Court itself commits a mistake which prejudices a party.

In *A.R. Antulay Vs. R.S. Nayak & Anr.* (1988)2 SCC 602(vide para 130), this Court has noticed motions to set aside judgments being permitted where

- (i) a judgment was rendered in ignorance of the fact that a necessary party had not been served at all and was shown as served or in ignorance of the fact that a necessary party had died and the estate was not represented,
- (ii) a judgment was obtained by fraud,
- (iii) a party has had no notice and a decree was made against him and such party approaches the Court for setting aside the decision *ex debito justitiae* on proof of the fact that there was no service.

...

8. In our opinion a tribunal or a court may recall an order earlier made by it if

- (i) the proceedings culminating into an order suffer from the inherent lack of jurisdiction and such lack of jurisdiction is patent,
- (ii) there exists fraud or collusion in obtaining the judgment,
- (iii) there has been a mistake of the court prejudicing a party or
- (iv) a judgment was rendered in ignorance of the fact that a necessary party had not been served at all or had died and the estate was not represented.

The power to recall a judgment will not be exercised when the ground for re-opening the proceedings or vacating the judgment was available to be pleaded in the original action but was not done or where a proper remedy in some other proceeding such as by way of appeal or revision was available but was not availed. The right to seek vacation of a judgment may be lost by waiver, estoppel or acquiescence."

6. He also referred to a later judgment by a three-Judge Bench of this Court in ***Greater Noida Industrial Development Authority v Prabhjit Singh Soni and Another (2024) 6 SCC 767*** wherein, relying on the earlier judgment in ***Budhia Swain*** (supra), this Court held as under:-

"47. In *Budhia Swain vs. Gopinath Deb* (1999) 4 SCC 396, after considering a number of decisions, a two-Judge Bench of this Court observed:

"8. In our opinion a tribunal or a court may recall an order earlier made by it if

(i) the proceedings culminating into an order suffer from the inherent lack of jurisdiction and such lack of jurisdiction is patent,

(ii) there exists fraud or collusion in obtaining the judgment,

(iii) there has been a mistake of the court prejudicing a party, or

(iv) a judgment was rendered in ignorance of the fact that a necessary party had not been served at all or had died and the estate was not represented.

The power to recall a judgment will not be exercised when the ground for reopening the proceedings or vacating the judgment was available to be pleaded in the original action but was not done or where a proper remedy in some other proceeding such as by way of appeal or revision was available but was not availed. The right to seek vacation of a judgment may be lost by waiver, estoppel or acquiescence."

7. Though, Mr. P.V. Dinesh, learned senior counsel for the respondents no. 1 to 5 has assisted the Court, but on a direct query as to the ground on which, the review petition has been allowed could be sustained, he could not defend, especially in view of the submissions made and the precedents cited by learned senior counsel for the appellants.

8. Having considered the matter in its entirety, we find that the contention raised by the learned senior counsel for the appellants

is correct. The power to recall, as has been done in the present case, is totally erroneous. The High Court misdirected itself by holding that just because other Writ Appeals of similar nature were admitted and pending, the present case also ought not to have been decided together and thus, a detailed order on merits has been recalled for being heard again along with the other Writ Appeals. Thus we find the impugned order is in the teeth of both the settled principles of review/recall, as also the judgments relied upon by the learned senior counsel for the appellants.

9. For reasons aforesaid, the appeal is allowed. The impugned order dated 25.03.2024 passed by the Division Bench of the High Court in R.P. No.656 of 2023 stands set aside. As a consequence, the judgment dated 23.03.2023 passed by the Division Bench of the High Court in Writ Appeal No.545 of 2023 stands restored.

10. Pending application(s), if any, shall stand disposed of.

.....J.
[AHSANUDDIN AMANULLAH]

.....J.
[VIJAY BISHNOI]

NEW DELHI
APRIL 16, 2026

ITEM NO.18

COURT NO.13

SECTION XI-B

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s).17342/2024

[Arising out of impugned final judgment and order dated 25-03-2024
in RP No.656/2023 passed by the High Court of Kerala at Ernakulam]

THE KERALA FINANCIAL CORPORATION & ANR.

Petitioner(s)

VERSUS

PREMARAJ M.A. & ORS.

Respondent(s)

(IA No. 279248/2024 - APPLICATION FOR SUBSTITUTION
IA No. 162189/2024 - EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT)

Date : 16-04-2026 This matter was called for hearing today.

CORAM :

HON'BLE MR. JUSTICE AHSANUDDIN AMANULLAH
HON'BLE MR. JUSTICE VIJAY BISHNOI

For Petitioner(s) Mr. V. Chitambaresh, Sr. Adv.
Mrs. Dhanya P. Ashokan, Sr. Adv.
Mr. Lakshmeesh S. Kamath, AOR
Mr. Venugopal, Adv.
Mrs. Samriti Ahuja, Adv.
Ms. Aditi Prakash, Adv.
Ms. Eka Kumari Singh, Adv.

For Respondent(s) Mr. P.V. Dinesh, Sr. Adv.
Mr. P. S. Sudheer, AOR
Mr. Rishi Maheshwari, Adv.
Mr. Bharat Sood, Adv.
Ms. Anna Oommen, Adv.
Mr. Jashan Vir Singh, Adv.

Ms. Anne Mathew, AOR

Mr. Dushyant Parashar, AOR

Mr. Nishe Rajen Shonker, AOR
Mrs. Anu K. Joy, Adv.
Mr. Alim Anvar, Adv.
Mr. Santhosh K., Adv.
Mrs. Devika A.L., Adv.

O R D E R

Heard Mr. V. Chitambareash, learned senior counsel for the petitioners and learned counsel for the respondents.

2. Application for substitution to bring on record the legal representatives of deceased respondent no.9 is allowed. Cause title be amended accordingly.

3. Leave granted.

4. The appeal is allowed in terms of the signed order.

5. Pending application(s), if any, shall stand disposed of.

(SAPNA BISHT)
COURT MASTER (SH)

(ANJALI PANWAR)
ASSISTANT REGISTRAR

(Signed order is placed on the file)