

E-LEARNING MODULES
 TOPIC : CODE OF CIVIL PROCEDURE
 CLASS: LLB third year and BALLB fifth year
MODULE 8 Reference, Review and Revision

Submitted by:
 Dr. Khakare Vikas
 Asso. Prof.
 Narayanrao Chavan Law College, Nanded
 SRTMUN College code127

	CONTENTS	NOTES
1	<p>REFERENCE [Section 113, Order XLVI]</p> <p>Subject to such conditions and limitations as may be prescribed, any Court may state a case and refer the same for the opinion of the High Court, and the High Court may make such order thereon as it thinks fit.</p> <p>A subordinate Court may refer case to High Court when:</p> <ol style="list-style-type: none"> i. Involves a question as to validity of any Act, Ordinance or Regulation or of any provision thereof, and ii. The determination of such question is necessary for the disposal of the case, and iii. In the opinion of the Court such Act, Ordinance, Regulation or provision is invalid or inoperative, but has not been so declared by High Court or Supreme Court. <p>The power of reference belongs to subordinate Court. When abovementioned conditions are satisfied, then subordinate Court shall state a case setting out its opinion and the reasons therefor. The subordinate Court has to express its opinion whether the Act is invalid or inoperative. Unless the subordinate comes to that conclusion, it is not bound to make reference. The reference does not lie on hypothetical or imaginary question or on any point likely to arise in future.¹</p> <p>The High Court, after hearing the parties if they appear and desire to be heard, shall decide the point so referred, and shall transmit a copy of its judgment, under the signature of the Registrar, to the Court by which the reference was made; and such Court shall, on the receipt thereof, proceed to dispose of the case in conformity with the decision of the High Court.</p>	
2	<p>REVIEW [Section 114, Order XLVII]</p> <p>A Review means to reconsider, to re-examine or to re-assess or to look again matter referred to it. It is judicial re-examination by the same Court. Generally it is to correct one's own decisions.</p>	

¹ Ram Dev v. Land Acquisition Judge, AIR 1970 Cal. 368; Re District Munsif, Chittor, AIR 1970 AP 365

2.1	<p>Who can apply for review: Review application can be made by any person considering himself aggrieved:</p> <ol style="list-style-type: none"> a. By a decree or order from which an appeal is allowed by this Code, but from which no appeal has been preferred, b. By a decree or order from which no appeal is allowed by this Court, or c. By a decision on a reference from a Court of Small Causes, <p>may apply for a review of judgment to the Court which passed the decree or made the order, and the Court may make such order thereon as it thinks fit.</p>	
2.2	<p>Grounds of review: A review application must contain following grounds:</p> <ol style="list-style-type: none"> i. 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 ii. On account of some mistake or error apparent on the face of the record or iii. For any other sufficient reason, 	
3	<p>REVISION [Section 115] To revise means to look again and correct. Object of this provision is to enable High Court to correct, when necessary, certain clauses of errors of jurisdiction committed by the subordinate Courts.</p> <p>The High Court may call for the record of any case which has been decided by any Court subordinate to such High Court and in which no appeal lies thereto, and if such subordinate Court appears:</p> <ol style="list-style-type: none"> a. To have exercised a jurisdiction not vested in it by law; or b. To have failed to exercise a jurisdiction so vested; or c. To have acted in the exercise of its jurisdiction illegally or with material irregularity, <p>the High Court may make such order in the case as it thinks fit.</p>	
3.1	<p>When High Court can use revision power: High Court can exercise its revision power when:</p> <ol style="list-style-type: none"> i. Person aggrieved by an order passed by subordinate Court make application or ii. High Court may <i>suo-motu</i> considers it necessary. 	
3.2	<p>Conditions for revision: High Court cannot apply its revision power unless following conditions are fulfilled:</p> <ol style="list-style-type: none"> 1. There must be a case decided 2. The Court deciding the case must be subordinate to High Court 	

	<p>3. Order passed is non appealable</p> <p>4. In deciding the case, subordinate Court must appear to have:</p> <ul style="list-style-type: none">a. Exercised jurisdiction not vested in it by law.b. Failed to exercise the jurisdiction so vested.c. Acted in the exercise of its jurisdiction illegally or with material irregularity.	
--	--	--

Questions for practice.

1. What is reference?
2. When High Court can make revision?
3. What are grounds for review?

For more information and study read Code of Civil Procedure 1908 with commentary and case laws.