

HIGH COURT OF TRIPURA
_A_G_A_R_T_A_L_A_
Review Pet. No.10 of 2025

Smti. Madhushri Tripura and Others

.....*Petitioners*

_V_E_R_S_U_S_

Land Acquisition Collector & Others

.....*Respondents*

For Petitioner(s) : Mr. S. Bhattacharjee, Advocate.
For Respondent(s) : Mr. B. Majumder, Deputy SGI.

HON'BLE MR. JUSTICE T. AMARNATH GOUD
_F_I_N_A_L_O_R_D_E_R_

03.03.2025

Heard.

[2] The present petition has been filed under Section-114 read with Order-47 Rule-1 of the Code of Civil Procedure, 1908 for reviewing the order dated 25.11.2024 passed in L.A. App. No.54 of 2024.

[3] The facts in brief are that the petitioners filed an appeal against the judgment passed by the Learned LA Judge, South Tripura, Belonia. The respondent No. 1 awarded compensation in favour of the predecessor-in-interest of the petitioners and after that predecessor-in-petitioner wrote a letter to the Respondent No.1 for determination of the market value of the acquired land and after that the case was referred to the Ld. LA Judge. The learned L.A. Judge only substituted the pro-forma respondent and without giving any opportunity for filing claim statement fixed the case for evidence and passed the judgment and the present petitioners also never been made a party in the suit before the learned LA Judge.

[4] The petitioners filed an appeal for setting aside the order passed by the learned Court below. The learned counsel of the petitioner due to *bonafide* omission submitted before this Court that no material evidence placed to learned Court below on the points of title deeds. From the said submission of the learned counsel of the petitioner this Court remands the case before the learned Court below for fresh adjudication on title deeds and on the strength of the documents that would be submitted by the parties. At the time of final hearing before the Court the learned counsel of the petitioner also could not address before this Court that the petitioners never been made a party in the suit and only pro-forma respondent was made party in that proceeding and as the petitioners were not made

the party thus, they had no scope to file the claim statement before the learned Court below and for this *bonafide* omission on the part of the learned counsel of the petitioner, this Court could not pass the order to permit the petitioners to file the claim statement before the learned Court below. As the said act of the learned counsel of the petitioner is error apparent on the face of the record.

[5] Being aggrieved by and dissatisfied with the same, the present review petition has been preferred before this Court.

[6] In view of above and having heard the learned counsel appearing for the parties, this Court is of the view that the case of the petitioner is that the predecessor-in-interest made a claim for the land that has been acquired by the respondents and thereafter, the learned L.A. Collector considered and some amounts were awarded. Aggrieved thereby, the persons in interest preferred their grievances before the learned L.A. Judge and for further enhancement they approached before this Court and the same was disposed of by remanding back the matter to the learned Court below for deciding the same by considering the title deeds and their rights.

[7] Now, the case of the petitioner is that the petitioners are the real owners and their interest is involved and all through they have not contested the matter and they have not approached the Court nor before the learned L.A. Collector by filing their objection or their claim and by way of filing the present petition along with condonation application they are before this Court. In the entire pleadings and in the material papers they have not placed anything on record to show that they approach before the concerned Court where their legitimate rights according to them have been denied. Straightway the petitioner has approached before this Court, when the matter is pending before the learned Court below, It always open for the petitioners to approach the learned Court below and raise all their objections but instead, filing an application to review the order do not invite any indulgences of this Court as there is no error in reviewing the order.

[8] Unless the requirements under the review are specified, the question of reviewing the order does not arise. The requirements under CPC may be extracted herein below for ready reference:

“114-Review: Subject as aforesaid, any person considering himself aggrieved-

(a) By a decree or other 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 Code, or

(c) By a decision on a reference from a Court of small causes, may apply for a review of judgment to the Court which passed by the decree or made the order, and the Court may make such order thereon as it thinks fit.”

[9] The requirements as contemplated in Tripura High Court Review provision in Chapter-VIII Rule-2 may be extracted for ready reference:

“2. Discovery of New Important Matter In Review Application: Every application for review made upon the ground of the discovery of new and important matter or evidence within the meaning of Order XLVII Rule 1 of CPC shall be accompanied by an affidavit of the applicant together with the documents, if any, relied upon, and stating in clear terms, what such new and important matter or evidence is, the effect or purport thereof and that the same, after the exercise of new diligence was not within the knowledge of the applicant or could not be produced at the time when the decree/order was passed.”

[10] Mere erroneous decision is distinguished from decision which could be characterized as vitiated by error apparent. Review of an order permissible if any grounds mentioned under Order-41 Rule-1 made out. There is distinction; it might not always be capable of exposition, between mere erroneous decision and decision which could be characterized as vitiated by error apparent. Review is not appeal in disguise where erroneous decision reheard and corrected by lies for patent error. Error which is not self-evident and has to be detected by process of reasoning can hardly be called as error apparent on face of record. The petitioner herein has not made out a ground for reviewing the order.

[11] In view of the above, the present petition stands dismissed. As a sequel, miscellaneous application, pending if any, shall stands closed.

T. AMARNATH GOUD, J

A. Ghosh

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