

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 19-03-2015

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

REVIEW APPLICATION (WRIT) No.321 OF 2014
and
M.P.No.1 of 2014

The Administrator (presently
the Managing Director)
Subramaniya Siva Coop. Sugar Mills Ltd.,
Gopalapuram 636 904.
Alapuram Post,
Pappireddipatty Taluk,
Dharmapuri District.

Review Applicant

Versus

1. Mr.K.Chinnaraj

2. The Commissioner of Sugar,
690, Anna Salai, Chennai 600 035.

Respondents

Prayer: This Review Application has been filed under Order 4 Rule 1 CPC
praying to review the order, dated 11.8.2014 made in W.P.No.9439 of 2012.

For Petitioner : Mrs.G.Thilakavathi

For Respondent : Mrs.Rajeni Ramadass

ORDER

By order, dated 11.08.2014, this Court disposed of the above said writ
petition in W.P.No.9439 of 2012, setting aside the impugned order and
directing the petitioner herein to pay the interest @ 12.% per annum accrued
on the terminal benefits for the period from 31.7.2008 to 31.3.2012 to the

first respondent herein viz., the writ petitioner within a period of six from the date of receipt of copy of that order.

2. The learned counsel for the petitioner would canvass the grounds to review the order, viz., that the order in the writ petition came to be passed for the reason that the petitioner herein has failed to file counter when in fact, the counter affidavit of the petitioner herein had been served to the writ petitioner placing on record the manner in which the non-disbursement of the terminal benefits had been caused, but, the failure to represent the facts as contained in the counter was only by oversight and hence, sought for indulgence of this court by reviewing the order.

3. On a perusal of the order, it is revealed that in fact, the above point was considered and dealt with extensor by this Court, both by law and on facts. The impugned order came to be set aside by this Court, holding that the delay in disbursement of terminal benefits was only due to the petitioner herein and not due to the writ petitioner. The learned counsel for the petitioner has nothing but, under the guise of review, re-canvassing the issues which were already decided in the order. On perusal of the counter, the review petitioner contends that the delay in disbursement of terminal benefits was only due to the delay in getting information from the other Mills where the writ petitioner had worked previously.

4. To maintain the review application, the review petitioner must satisfy the three requirements of Order 47 Rule 1 of C.P.C. i.e.

- i) From discovery of new and important matter or evidence which after 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;

- ii) There is some mistake (or) error apparent on the face of the record in the judgment under review; and
- iii) Or any other sufficient reasons.

The basic principle to entertain the review under Order 47 Rule 1 C.P.C. is to correct the errors but not to substitute a view.

The judgment under review cannot be reversed (or) altered taking away the rights declared and conferred by the Court under the said judgment.

Once judgment is rendered the Court becomes functus officio and it cannot set aside its judgment or the decree.

No inherent powers of review were conferred on the Court. The review Court cannot look into the trial Court judgment; it can look into its own judgment for limited purpose to correct any error or mistake in the judgment pointed out by the review petitioner without altering or substituting its view in the judgment under review.

The review court cannot entertain the arguments touching the merits and demerits of the case and cannot take a different view disturbing the finality of the judgment.

The review cannot be treated as appeal in disguise as the object behind review is ultimately to see that there should not be miscarriage of justice and shall do justice for the sake of justice only.

Review on the ground that the judgment is erroneous cannot be sustained.

5. Having regard to the above, this Court is of the view that there is no need to review the order.

6. It is settled law that even an erroneous decision cannot be a ground for the Court to undertake review, as the first and foremost requirement of entertaining a review petition is that the order, review of which is sought, suffers from any error apparent on the face of the order and in absence of any such error, finality attached to the judgment/order cannot be disturbed.

7. In "***Shanmuga Sundara Nadar versus Tamil Nadu Housing Board, rep. by its Chairman, Madras and others***", reported in 1988 (2) L.W. 57 (MAD.) this Court held as under:-

"The power to review is a restricted power which authorises the Court to look through the judgment not in order to substitute a fresh or second judgment but in order to correct it or improve it, because some material which it ought to have considered has escaped consideration or failed to be placed before it for any other reason or because it suffers from a patent error which cannot be sustained by any process of reasoning. The Court cannot under cover of review arrogate to itself the power to decide the case over again because it feels then that the assessment of evidence, etc., done formerly was faulty or even incorrect. An erroneous view of evidence of law is not a ground for review. A wrong exposition of the law, a wrong application of the law and failure to apply the correct law have been held to be not a ground for review."

8. In "**Meera Bhanja versus Nirmala Kumari Choudhury**" reported in (1995) 1 SCC 170, the Hon'ble Supreme Court while considering the scope of review power of High Court, under Order 47, Rule 1, C.P.C. held as under:

"The review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of Order 47, Rule 1 C.P.C. The review petition of error apparent on the face of the record and not on any other ground. An error apparent on the face of the record must be such an error which must strike one on mere looking at the record and would not require any longdrawn process of reasoning on points where there may conceivably be two opinions. The limitation of powers on court under Order 47, Rule 1, C.P.C. is similar to jurisdiction available to the High Court while seeking review of the orders under Article 226."

9. Having regard to the above, this Court does not find any error apparent on the face of the order in order to entertain the present review application. If the review petitioner is aggrieved by the order passed in the writ petition, it is open to them to take appropriate step to recover the loss sustained by them from the other Mills, but, it will not be a ground for review.

Accordingly, this Review Application is dismissed. No costs. The connected miscellaneous petition is also dismissed.

19.03.2015

ssk.

S.VAIDYANATHAN, J.

ssk.

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19.3.2015