



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.07.2015

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

REV.APLC (MD) Nos.108 & 109 of 2015

in

C.R.P. (NPD) (MD) Nos.1022 & 1023 of 2015

Sivasankaran

... Petitioner / Respondent  
in both review petitions

-vs-

1.T.Munusamy

2.M.Jeyashri

... Respondents / Petitioners  
in both review petitions

PRAYER (in REV.APLC (MD) No.108 of 2015):

Review Petition is filed Section 114 of the Code of Civil Procedure, to review the order, dated 07.07.2015, passed in C.R.P. (NPD) (MD) No.1022 of 2015, on the file of this Court.

PRAYER (in REV.APLC (MD) No.109 of 2015):

Review Petition is filed Section 114 of the Code of Civil Procedure, to review the order, dated 07.07.2015, passed in C.R.P. (NPD) (MD) No.1023 of 2015, on the file of this Court.

PRAYER IN CRP.NPD (MD)Nos.1022 and 1023 OF 2015:

These Civil Revision Petitions filed under Article 227 of the Constitution of India to allow the Civil Revision Petitions, thereby, strike of Execution Petitions in E.P.Nos.71 and 34 of 2014 in O.S.No.21 of 2011, respectively, on the file of the Principal District Court, Thanjavur.

For Petitioner : Mrs.N.Krishnaveni  
(in both cases)

#### COMMON ORDER

The petitioners filed these two review petitions to review the common order, dated 07 July, 2015 in C.R.P.(NPD) (MD) Nos.1022 and 1023 of 2015, whereby and whereunder this Court set aside the order passed by the Executing Court and allowed the civil revision petitions.

2. According to the petitioner, it was only after issuing notice to the respondents, the decree was amended by the Executing

3. This Court allowed the civil revision petitions, primarily,



on the ground that the learned Executing Judge passed an order on the memo unaccompanied by an affidavit. The factum of non-issuance of notice was not a primary issue. In fact, the learned Executing Judge has not given any indication with regard to the acceptance of notice by the respondents. This Court considered the factual matrix and allowed the civil revision petitions.

4. The review jurisdiction is conferred for a definite purpose. The Court cannot review its earlier order and pass fresh orders on merits without making out a case under Order XLVII Rule 1 of the Code of Civil Procedure.

5. The Supreme Court in *Aribam Tuleshwar Sharma v. Aribam Pishak Sharma and others* [(1979) 4 SCC 389], observed thus:

*"It is true as observed by this Court in Shivdeo Singh v. State of Punjab, there is nothing in Article 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. But, there are definitive limits to the exercise of power of review. The power of review may be exercised on the discovery of new and important matter or evidence which, after the exercise of due diligence was not within the knowledge of the person seeking the review or could not be produced by him at the time when the order was made; it may be exercised where some mistake or error apparent on the face of the record is found; it may also be exercised on any analogous ground. But, it may not be exercised on the ground that the decision was erroneous on merits. That would be the province of a Court of appeal. A power of review is not to be confused with appellate power which may enable an Appellate Court to correct all manner of errors committed by the Subordinate Court."*

6. The Supreme Court in *M/s. Northern India Caterers (India) Ltd., v. Lt. Governor of Delhi* [(1980) 2 SCC 167] indicated the extent of review jurisdiction in the following words:

*"...that it is beyond dispute that a review proceeding cannot be equated with the original hearing of the case and the finality of the judgment delivered by the Court will not be reconsidered except "where a glaring omission or patent mistake*



or like grave error has crept in earlier by judicial fallibility."

7. The Court of review has a limited jurisdiction circumscribed by the definite limits fixed under Order XLVII Rule 1 of the Code of Civil Procedure. The review jurisdiction is restrictive in nature and it cannot be equated to appeal. In case the Court has taken a decision on merits, such decision should be respected. The remedy of the aggrieved is to prefer appeal alone. In a matter of review, the petitioner should plead and prove that his case is well within the four corners of Order XLVII of the Code of Civil Procedure. The petitioner has miserably failed to prove that he is entitled to file a review petition.

8. In the upshot, I dismiss the review petitions. No costs.

Sd/-

Assistant Registrar (Crl.side)

/True Copy/

Sub Assistant Registrar

TO

The Principal District Judge, Thanjavur.

+ 4 CC TO M/S.N.KRISHNAVENI, ADVOCATE IN SR NOS. 42628, 42629 & 43910

KRK

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