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Review Application No. 146 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 19.09.2023**

CORAM

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM**

**Review Application No.146 of 2023**

**against W.P.No.19453 of 2023**

**and**

**W.M.P.No.25812 of 2023**

Syed Sadiq Mosque And Dargah,  
Rep.by its President and Muthawalli,  
Mr.Z.Janaludeed, Kundrathur Main Road,  
Mangadu Village, Chennai.

... Applicant

Vs.

1. Vinayak Senthil

2. The Thasildhar,  
Kundrathur Taluk, Kundrathur,  
Kancheepuram District.

... Respondents

**Prayer:** Review Application filed under Order 47 Rule 1 and 2 read with Section 114 of Civil Procedure Code, pleaded to review the order dated 3.07.2023 passed in WP. No. 19453 of 2023 and set aside the same and consequently dismiss W.P. No. 19453 of 2023.

For Applicant

: Mr.K.Sasindran

For Respondents

(for R1)

: Mr.R.Raghavendran for

Ms.G.Gayathri

(for R2)

: Mr.T.Arun Kumar

Additional Government Pleader



## **ORDER**

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The review application has been filed to review the order dated 03.07.2023 passed in W.P.No.19453 of 2023. The first respondent herein is the writ petitioner who has filed W.P.No.19453 of 2023 to direct the respondents therein to dispose of the representation to appoint a surveyor and measure the land comprised in S.No.494/9 situated at Kancheepuram District, Kundrathur Taluk, Mangadu Village.

2. This Court passed a common order directing the authorities to consider the representation in the light of the judgement earlier delivered by this Court in W.P.No.37519 of 2016 dated 19.06.2023.

4. The Review petitioner Syed Sadiq Mosque And Dargah, represented by its President and Muthawalli, filed the present review petition mainly on the ground that the first respondent/ writ petitioner had suppressed the fact regarding the pendency of the appeal in O.A.No.103 of 2022 on the file of the Wakf Tribunal and the Civil Suit in O.S.No.30 of 2023, pending on the file of District Munsif Court at Sriperumbudur. By suppressing the said facts, the common order has been obtained by the writ



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petitioner in the writ petition. Thus, the present review petition is filed.

5. Survey under the provisions of the Survey and Boundaries Act 1923 can be conducted in the event of no dispute between the parties. The Act cannot be utilised for the purpose of settling the Civil dispute between the parties. The Act enacted during the year 1923 is to be utilised for the purpose of settling the unsettled boundaries. At present, the Act has been utilised to maintain the revenue records and that being the factum, survey cannot be conducted in respect of the disputed properties and in such circumstances, the parties are to be relegated to approach the competent Civil Court of law.

6. In the present case, the review petitioner states that the subject property belongs to wakf and the petitioner has filed the writ petition without stating any of these factors. More so, the application is pending before tribunal and a civil suit in O.S.No.30 of 2023 is also pending. Thus, the Government Surveyor cannot conduct survey.



7. In view of the fact that the petitioner has suppressed the material facts and error apparent occurred in the order and thus, the order passed by this Court is to be reviewed.

8. Accordingly, the review petition filed by the petitioner stands **allowed** and thus, the W.P.No.19453 of 2023, filed by the first respondent stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

**19.09.2023**

Sha  
Index : Yes  
Speaking order  
Neutral Citation : Yes



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**S.M.SUBRAMANIAM, J.**

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