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Review Application Nos.270 & 271 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.03.2023

CORAM:
THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

Review Application Nos.270 & 271 of 2022

in

W.P.Nos.25679 of 2008 & 8588 of 2009

and

W.M.P.Nos.34415, 34411 of 2022

1.M/s.Nova Techset Limited,
(Formerly Known as Techset Composition India(P) Ltd.)
'Mini Mac Centre', 3rd and 4th Floor,
No.118, Arcot Road,
Valasaravakkam, Chennai 600 087.

...Petitioner in both the
Review Applications

vs.

1. Mr.J.Sriram
2. The Chairman
Tamil Nadu Electricity Board,
No.144, Anna Salai
Chennai-600 002.
3. The Executive Engineer
(O & M), Guindy, Tamil Nadu,
Electricity Board, 110 KV Sub-Station
K.K. Nagar, Chennai-600033.



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4. The Asst. Executive Engineer
(O & M), Ramapuram, Tamil Nadu,
Electricity Board, 110 KV Sub Station,
K.K.Nagar, Chennai 33.

... Respondents in both the
Review Applications

PRAYER in Review Application No.No.270 of 2022 : Review Application
filed under Order 47 Rule 1 read with Section 114 of C.P.C. praying to
review the Order passed in W.P.No.25679 of 2008 dated 12.04.2022.

PRAYER in Review Application No.No.271 of 2022 : Review Application
filed under Order 47 Rule 1 read with Section 114 of C.P.C. praying to
review the Order passed in W.P.No.8588 of 2009 dated 12.04.2022.

For Petitioner in both the
Review Applications : Mr.B.Kishore

For Respondents in both the
Review Applications :
(for R1) : Mr.M.Venkata Krishnan
(for R2 to R4) : Ms.Keerthana Shenoï for
Mr.L.Jai Venkatesh

COMMON ORDER

The review petitions have been filed to review the order passed by
this Court in W.P. No.25679 of 2008 dated 12.04.2022 and W.P.No.8588 of
2009 dated 12.04.2022. The review petitioner is the 4th respondent in the



writ petitions. The grievance of the review petitioner is that the vital facts which all are relevant were not adjudicated in the writ proceedings. Thus, the petitioner has chosen to file the present review petitions.

2.The grounds raised in the review petitions reveal that the petitioner raises several factual aspects and issues on merits. Such an adjudication cannot be done in a review proceedings and the scope of review cannot be expanded for re-adjudication of the issues of merits.

3.The petitioner could not establish any error apparent for the purpose of exercising the powers of review by this Court. More so, the counsel appeared in the writ petition has not filed the review application and the petitioner has engaged some other counsel and filed the review application which cannot be appreciated in view of the judgment of the Supreme Court of India in the case of ***State of Tamil Nadu Electricity Board and another Vs. Raju Reddiar and another (1997) 9 SCC 736*** as under:



“18. Learned counsel for THIC, while reiterating the reason for delay, which has been re-produced supra, referred to the review petition. A perusal of the review petition reveals that it has been filed under Article 226 of the Constitution of India. Considering the narrow scope on which the review petition and W.M.P.No. 30191 of 2017 would now turn, this Court is of the considered view that elaborate analysis on this aspect may not be required while considering these two petitions. Learned counsel for THIC submits that counsel who appeared for THIC in the earlier round of litigation when the writ petition came to be disposed of this Court, did not agree for a sum of Rs.17 lakhs as bank guarantee. This is specifically set out in paragraph No.7 of the review petition and the most relevant portion of paragraph No.7 of the review petition reads as follows:

“...But the Counsel did not agree for a sum of Rs.17 lakhs as a bank guarantee and there is no such instruction given by the Corporation to the then counsel who appeared in the Writ Petition. Without instruction from the revision petitioner Corporation, how this amount of Rs.17 lakhs



arrived after a lapse of 15 years from the date of payment to sales tax authorities is <http://www.judis.nic.in> unacceptable and is liable to be modified.”

19. Responding to the aforesaid submissions of learned counsel for TIIC, Mr.PraveenS.Kumar of M/s.Rank Associates submits that the same counsel had appeared on behalf of Virgo in the earlier round of litigation also. Learned counsel draws the attention of this Court to Tamil Nadu Electricity Board and another Vs. N.Raju Reddiar in (1997) 9 SCC 736.

20. Learned counsel for Virgo submitted that the practice of changing advocates and filing the such petitions has been deprecated by the Hon'ble Supreme Court. Be that as it may, learned counsel emphasised counsel for TIIC who appeared in the earlier round/base litigation did agree for a bank guarantee for aforesaid sum and did submit before that title deeds of properties given as collateral security will be released if bank guarantee for aforesaid sum is furnished.



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21. It is also pointed out that it is a well established principle that a review petition should necessarily be filed by the same counsel who appeared in the first round of litigation unless there are some <http://www.judis.nic.in> extra-ordinary circumstances which makes it impossible for the same counsel to file the review petition.”

4.Certain grounds raised on merits may be a ground for an appeal but certainly cannot be entertained in a review application. This being the factum, this Court is not inclined to entertain the review application and accordingly, the review applications stand dismissed. Consequently, the connected miscellaneous petitions are closed.

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(Sha)
Index : Yes
Speaking order : Yes
Neutral citation : Yes

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S.M.SUBRAMANIAM, J.

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