



Rev.Aplw.No.93 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.06.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Review Application Writ.No.93 of 2024
and
W.M.P.Nos.16384 & 16385 of 2024

1.Sharaf Sha

2.Syed Shafiyulla

3.Faizoon Bi

.. Petitioners

Vs.

1.A.Sheik Mohammed Sathik

2.The District Collector,
Kallakurichi District, Kallakurichi.

3.The Block Development Officer,
Thiyagaduram, Kallakurichi District.

.. Respondents

Prayer: Review Petition filed under Order XLVII Rule 1 of CPC r/w
Section 114 of CPC, to review the order in W.P.No.9670 of 2020 dated
26.08.2020.

For Petitioner	:	Mr.T.Sai Krishnan
For R1	:	Mr.Sharath Chandran
For RR 2 & 3	:	Mr.C.Sathish Government Advocate



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ORDER

This Review Application has been filed to review the order passed by this Court on 26.08.2020 in W.P.No.9670 of 2020.

2.This Review Application has been filed by third parties for whom leave was granted by this Court in W.M.P.No.2376 of 2021 on the ground that the Review Applicants are the actual owners of the subject property in Survey No.134/7 and that a suit is also pending in this regard in O.S.No.529 of 2011 before the District Munsif Court, Kallakurichi and that the writ petitioner has projected a case as if he is the exclusive owner of the property and therefore, the final order passed in the writ petition will cause grave prejudice to the right and title of the review applicants in the subject property. Therefore, the review applicants have sought for reviewing the order passed in the writ petition.

3.Heard the learned counsel for the petitioner, learned counsel for 1st respondent and the learned Government Advocate for respondents 2 & 3 and perused the materials available on record.



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4.The review applicants are claiming to be the lawful owner of the land comprised in Survey No.134/7 in Periyamambattu Village. According to the review applicants, they are claiming their right and title through a sale deed dated 16.04.2008, settlement deed dated 01.07.2010 and sale deed dated 22.09.2010 respectively. The further case of the review applicants is that the writ petitioner was claiming title through the settlement deed dated 29.11.2010 and the settlor who executed this settlement deed did not have any right or title over the property. Proceedings were also initiated before the District Registrar in this regard and an adverse finding was given to that effect by the District Registrar, Kallakurichi through proceedings dated 20.05.2020. That apart, the suit in O.S.No.529 of 2011 has been filed by the writ petitioner before the District Munsif Court, Kallakurichi, seeking for the relief of declaration of title and the same is pending. Hence, the order passed in the writ petition as if the writ petitioner alone is the exclusive owner of the subject property is going against the right, title and interest of the review applicants, which is sought to be reviewed in this review application.

5.The entire purport of the order passed in the Writ Petition mainly



confined itself to the action taken by the Block Development Officer in laying a road in Survey No.134/7 without acquiring the property or without paying any compensation. Taking into consideration the stand that was taken by the writ petitioner and by the respondents, this Court issued certain directions at paragraph No.11 of the order, which is extracted hereunder:

“11.In view of the above controversy, there shall be a direction to the first respondent to engage the services of the Tahsildar and conduct the survey over the property. If during survey, any portion of the road is laid in Survey No.134/7, Periyampattu Village, Kallakurichi District and the same is identified, the said portion of the road shall be removed / obliterated. This process shall be completed within a period of four(4) weeks from the date of receipt of a copy of this order. It is made clear that if in case, the respondents intend to acquire the property of the petitioner in Survey no.134/7, this order will not come in their way to undertake such a process. However, till the said process is undertaken, the petitioner cannot be deprived of his right over the



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property and that is the reason why the above direction is issued by this Court.”

6.In the light of the rival claim made by the review applicants and in the light of the civil suit pending between the parties before the competent Civil Court, it is made clear that the order passed in the writ petition does not trench upon the *interse* rights between the writ petitioner and the review applicants and it only confines to the directions that were issued to the concerned authority. The order passed in the writ petition should not be taken as if the right and title over the subject property of the writ petition has been recognized by this Court.

7.Such finding will not have any bearing before the Civil Court and the Civil Court will independently deal with the *interse* rights of the parties on its own merits and in accordance with law.

8.In the light of the above clarifications issued by this Court, the order passed in the Writ Petition does not in any way stand against the review applicants and the right, title and interest over the subject property is kept open to be agitated before the competent Civil Court



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where the suit is pending.

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9.This observation will sufficiently take care of the interest of both the writ petitioner as well as the review applicants.

10.This Review Application is disposed of in the above terms. Consequently, the connected Miscellaneous Petitions are closed. No costs.

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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

N.ANAND VENKATESH, J.

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