



Rev.Aplw.No.26 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Review Application No.26 of 2021
in W.P.No.16216 of 2019
and WMP Nos.3043 & 3044 of 2021

M/s.Sri Krishna I-Tech and Management
Solutions Private Limited,
Represented by its Managing Director,
Ms.S.Malarvizhi,
No.6, Vivekananda Road,
Ramnagar, Coimbatore-18.

.. Petitioner

Vs.

- 1.G.D.Rajkumar
- 2.The Director of Survey and Land Records,
Office of the Directorate of Survey &
Land Records, Survey House,
Chepauk, Chennai.
- 3.District Revenue Officer,
Collectorate Building,
Coimbatore 641 018.
- 4.The Assistant Director of Survey,
District Survey and Land Records
Department,
Collectorate Building,
Coimbatore-641 018.
- 5.The Tahsildar (North),
Coimbatore North Taluk Office,
Balasundaram Road,
Coimbatore-18.

.. Respondents



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PRAYER: Review Petition has been filed under Order 47 Rule 1 & 2 r/w Section 114 of Civil Procedure Court to review the order dated 17.03.2020 in W.P.No.16216 of 2019.

For Petitioner : Mr.M.S.Krishnan
Senior Counsel
for Mr.E.K.Kumaresan

For Respondents: Mr.AR.L.Sundaresan
Senior Counsel
for Mr.C.V.Shailandhran
for R1

ORDER

This Review Petition has been filed to review the order passed in W.P.No.16216 of 2019, dated 17.3.2020.

2.The review petitioner is the 5th respondent in the writ petition. The 1st respondent in this review petition was the writ petitioner and he challenged the proceedings of the 2nd respondent herein dated 29.05.2019 who in turn confirmed the order passed by the 3rd respondent through proceedings dated 10.08.2018.

3.This Court upon hearing both sides allowed the writ petition by setting aside the orders passed by the 2nd and 3rd respondents herein and



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further directed the 4th respondent herein to restore the records to its original position as per the orders of the 4th respondent dated 23.06.2017.

This Court also made it clear that it will be left open to the respective parties to raise all the grounds before the Civil Court where O.S.No.56 of 2019 is pending and the Civil Court was directed to deal with the case on its own merits and in accordance with law without being influenced by the orders passed by the official respondents and the order passed in the writ petition.

4.The review petition has been filed mainly on the ground that certain vital documents were not brought to the notice of this Court and as a result, some of the observations that were made by this Court while passing the order in the writ petition, will work to the prejudice of the review petitioner and such observations are an error apparent on the face of the order.

5.Mr.M.S.Krishnan, learned Senior Counsel appearing on behalf of the review petitioner submitted that T.S.Nos.1054/1 and 1051/1 belongs to the writ petitioner and T.S.Nos.1054/2 and 1051/2 belongs to the review petitioner. The disputed survey number is T.S.No.1054/2, southern side east to west measuring 81.6 metres [268 feet].

6.The learned Senior Counsel brought to the notice of this Court the earliest document which was a sale deed dated 04.09.1933 and pointed out



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to the schedule of property where there is no mention regarding the measurement of the boundaries. The learned Senior Counsel thereafter proceeded to draw the attention of this Court to the sale deed dated 01.11.1971 where east to west on the southern side has been mentioned as 268 feet and which is relevant for the present case.

7.The learned Senior Counsel pointed out to the notification issued in the Government gazette dated 12.02.2005, where there is a mention to T.S.Nos.1051-1054. This notification was issued pursuant to the measurements made under Section 13 of the Tamil Nadu Survey and Boundaries Act, 1923, wherein it was intimated that if anyone is aggrieved by the notification, they can institute a suit within a period of three years from the date of notification to set aside or modify the determination of any boundary and only thereafter, alteration can be made in the records. The learned Senior Counsel submitted that no measurements were available in this notification.

8.The learned Senior Counsel further submitted that the review petitioner came into the picture pursuant to the sale deed dated 19.05.2014. While describing the boundary, east to west on the southern side was mentioned as 268 feet.



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9. The learned Senior Counsel further submitted that the review petitioner obtained certain documents under the Right to Information Act and only thereafter it came to light that the sub division and measurements had taken place through proceedings dated 15.03.2005 and insofar as T.S.No.1054/2, it has been clearly mentioned as 227 feet and 41 feet on the southern side running east to west and both put together comes to 268 feet which tallies with the measurement given in the earlier sale deed dated 01.11.1971 and the sale deed executed in favour of the review petitioner dated 19.05.2014. The learned Senior Counsel submitted that if 268 feet is converted to metres, it comes to 81.6 metres.

10. The learned Senior Counsel by pointing out to the above documents submitted that there was no confusion regarding the extent that was mentioned even after the survey was conducted by the revenue authorities. The actual confusion started when the Corporation of Coimbatore had altered the measurement as 80.3 metres and 21 metres [instead of 20 metres] in the year 2014 and it is not known based on whose request such a change was made by the Corporation of Coimbatore. The subsequent correction was carried out by the Town Sub Inspector of Survey, Coimbatore Corporation on 05.02.2017.



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11. The learned Senior Counsel submitted that it is quite evident from the records that have now been obtained by the review petitioner that the alteration of the extent on the southern boundary running east to west did not happen by virtue of the survey done under the Tamil Nadu Survey and Boundaries Act and this alteration had taken place only from the side of the Coimbatore Corporation. This was set right by the concerned authorities by restoring the measurement of the boundary on the southern side running east to west as 69.1 and 20 metres in T.S.Nos.1054/1 and 1054/2.

12. The learned Senior Counsel submitted that the order passed in the writ petition gives an impression as if the measurement has been restored as per the survey that was conducted under the Tamil Nadu Survey and Boundaries Act. The learned Senior Counsel submitted that the gazette notification did not give the exact measurements and the measurements came to light only after the relevant documents were obtained under the Right to Information Act. Hence, all the observations made by this Court in the writ petition on the premise that the measurement of the boundary was pursuant to the survey conducted under the Act and notification issued, may not be correct. This confusion has actually arisen only due to the alteration done by the Coimbatore Corporation. Hence, it was contended that all the observations must be removed and it should be left open to both the parties to make out their case before the Civil Court on its own merits and in



accordance with law.

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13.Per contra, Mr.AR.L.Sundaresan, learned Senior Counsel appearing on behalf of the writ petitioner submitted that the review petitioner is now relying upon various documents and such process of reasoning by appreciating those documents, cannot be followed while dealing with a review petition. The learned Senior Counsel submitted that the review petitioner is actually arguing an appeal in the disguise of a review petition. The learned Senior Counsel contended that this Court at paragraph No.20 of the order has made it very clear that all the issues are left open to be considered by the Civil Court and therefore, there cannot be any apprehension that the orders passed by the authorities and the order passed in the writ petition will have any influence when the Civil Court decides the matter. In any case, proceedings were issued against the writ petitioner without putting him on notice and the same has been interfered and the records have been restored to its original position while leaving it upon to the parties to agitate their claims before the Civil Court. Accordingly, the learned Senior Counsel seeks for dismissal of the review petition.

14.it is trite law that the scope of a review petition is only to see if there is any error apparent on the face of the order. The Court cannot reanalyze the entire case once again and it cannot be converted into an



appeal disguised as a review petition.

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15.The various documents that have been relied upon by the learned Senior Counsel appearing on behalf of the review petitioner, requires a process of reassessment of the entire facts of the case. That clearly is beyond the scope of the review petition. The observations that have been made while passing the order in the writ petition are based on *prima facie* materials placed before the Court. The main ground on which the writ petition was allowed was that the writ petitioner was not put on notice when the corrections were carried out in the records while altering the measurements as 20 metres and 69.1 metres regarding the southern boundary running east west. Hence, violation of principles of natural justice was the main ground that impelled this Court to allow the writ petition by setting aside the impugned orders passed by the official respondents. Once the orders are set aside, obviously the records will have to be restored to its original position.

16.The issue as to whether the corrections/alterations took place during the survey undertaken under the Tamil Nadu Survey and Boundaries Act, or it happened subsequently due to such alteration made by the Coimbatore Corporation, is not a matter which can be gone into in the review petition.



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17.All the contentions that were put forth by the learned Senior Counsel appearing on behalf of the review petitioner and the documents that were relied upon, can always be placed before the Civil Court where the suit is pending in O.S.No.56 of 2019, on the file of the Additional District Court, Coimbatore. The observations that were made while disposing of the writ petition, will not have any bearing while deciding the suit on merits. Therefore, in addition to the clarity that was given at paragraph Nos. 20 and 21 of the order passed in the writ petition, it is made abundantly clear that the Civil Court will not be influenced by the orders passed by the official respondents and the order passed in the writ petition. All the issues will be left open and all contentions can be raised on either side by submitting the relevant documents. The same will be considered on its own merits and in accordance with law by the Civil Court. No further orders can be passed in this review petition.

18.While disposing of the writ petition, this Court directed the Additional District Court, Coimbatore, to dispose of the suit within a time frame. However, the suit is pending till date due to the present controversy. Hence, there shall be a direction to the Additional District Court, Coimbatore, to conclude the proceedings in OS.No.56 2019, within a period of four months from the date of receipt of copy of the order.



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19.This Review Petition is disposed of accordingly. No costs.

Consequently, connected miscellaneous petitions are closed.

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



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