



Rev.Aplc (MD) No.159 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 11.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

REV.APL.C(MD).No.159 of 2024

in

CRP(MD)No.731 of 2022

Tmt.Devaki

... Review Applicant

Vs

1.S.Sureshwaran

2.The District Collector,
Madurai.

3.The Tahsildar,
Vadipatti,
Madurai District.

... Respondents

PRAYER: Review Application filed under Section 114 r/w Order 47 Rule 1 of CPC, to review the order, dated 26.07.2022 passed by this Court in CRP(MD)No.731 of 2022.

For Applicant	: Mr.RM.Arun Swaminathan
For R1	: Mr.R.Janakiramulu
For R2 & R3	: Mr.G.V.Vairam Santhosh
	Additional Government Pleader



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ORDER

This Review Application is filed to review the order, dated 26.07.2022, passed by this Court in CRP(MD)No.731 of 2022.

2.CRP(MD) No.731 of 2022 was filed as against the fair and decreetal order passed by the learned District Munsif, Vadipatti in I.A.No.940 of 2021 in O.S.No.105 of 2020, dated 09.03.2022. This Court, by order dated 26.07.2022 has dismissed the Civil Revision Petition as under:-

"6.This Court, by earlier order dated 15.06.2022 ordered for conducting survey of the suit property by the Surveyor concerned, in the presence of the respective parties and their counsel. A report has also been submitted before this Court by the Tahsildar, Vadipatti and the same is placed on record. The report shows that the petitioner /the first defendant being pattadhar of the property in S.No.77/8, is in possession and enjoyment of 1.8 Meter width in excess, pertaining to Survey No.77/7, which belongs to the plaintiff, by putting up a survey stone. It is also to be noted that there is no specific bar prohibiting the Court to



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entertain the suit, as per provisions of the Tamil Nadu Survey and Boundaries Act,1923, which really prescribes limitation for instituting a suit in a Civil Court within three years to establish the rights of the parties, in respect of boundary of the property surveyed. The plaintiff has purchased the property in the year 2020 and thereafter filed the suit, based on the available boundary stone and also there is no specific bar preventing the plaintiff to file the suit based on the available survey stone. Moreover, as per order of this Court, the survey of the property has also been conducted and a report has also been produced to that effect.

7.In view of the foregoing reasons, this Court is not inclined to interfere with the order of the trial Court in dismissing the application filed by the petitioner herein in I.A.No.940 of 2021 in O.S.No.105 of 2020, dated 09.03.2022. However, the trial Court is expected to dispose of the suit in O.S.No.105 of 2020 as early as possible, without any influence of this order in this Civil Revision Petition. The parties shall produce the survey report before the trial Court forthwith and co-operate for the trial.

8.Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.”



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3. Now, the petitioner has preferred this Review Application that based on the order of this Court, the surveyor has surveyed the subject property on 02.07.2022 without finding the actual survey stones and based on the report of the Surveyor, this Court has disposed of CRP(MD) No.731 of 2022, by its order, dated 26.07.2022. According to the petitioner, without finding the survey stones in the subject property, the report has been prepared by the Surveyor and if it is accepted by the trial Court, the petitioner would be prejudiced.

4. Before venturing into any discussion as to the merits of these Review applications, this Court may point out that the power of Courts in matters of review is very limited. Such power can be exercised only when there is an error apparent on the face of the record and in that event if an order is not reviewed, it would amount to miscarriage of justice. For the said proposition, this Court may usefully refer to the decision of a Division Bench of this Court, in *Union of*



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***India, Rep. by the Senior Divisional Commercial Manager, Chennai,
Vs. The Registrar, Central Administrative Tribunal, Madras Bench,***
reported in ***CDJ 2014 MHC 241***, wherein the Division Bench has
made a complete survey of several decisions of the Supreme Court, on
this question, and has ultimately held as follows:-

*"10. In yet another Judgment reported in 2013 (8) SCC
320, [Kamlesh Verma Vs. Mayawati and others], the
Hon'ble Apex Court, after examining various Judgments
passed earlier has held as follows:*

*"12. This Court has repeatedly held in various
Judgments that the jurisdiction and scope of review is
not that of an appeal and it can be entertained only there
is an error apparent on the face of record. A mere
repetition through different counsel, of old and
overruled arguments, a second trip over ineffectually
covered grounds or minor mistakes of inconsequential
import are obviously insufficient....."*

*In the above Judgment, the Hon'ble Apex Court has laid
down the principles as under:*

"19. Review proceedings are not by way of an



appeal and have to be strictly confined to the scope and ambit of Order XL VII Rule 1 of CPC. In review jurisdiction, mere disagreement with the view of the Judgment cannot be the ground for invoking the same. As long as the point is already dealt with and answered, the parties are not entitled to challenge the impugned Judgment in the guise that an alternative view is possible under the review jurisdiction.

Summary of the principles:

20. Thus, in view of the above, the following grounds of review are maintainable, as stipulated by the statute:

20.1 When the review will be maintainable:-

(i). Discovery of new and important matter or evidence which, after the exercise of due diligence, was not within knowledge of the petitioner or could not be produced by him;

(ii). Mistake or error apparent on the face of record;

(iii). Any other sufficient reason.

The words 'any other sufficient reason' has been



*interpreted in **Chhajju Ram Vs. Neki, AIR 1922 PC 112** and approved by this Court in **Moran Mar Basselios Catholicos Vs. Most Rev.Mar Poullose Athanasius & others [1955] 1 SCR 520**, to mean, "a reason sufficient on grounds at least analogous to those specified in the rule". The same principles have been reiterated in **Union of India Vs. Sandur Manganese & Iron Ores Ltd., ors., JT (2013) 8 SC 275**.*

20.2. When the review will not be maintainable:-

- (i) A repetition of old and overruled argument is not enough to reopen concluded adjudications.*
- (ii). Minor mistakes of inconsequential import.*
- (iii). Review proceedings cannot be equated with the original hearing of the case.*
- (iv). Review is not maintainable, unless the material error, manifest on the face of the order, undermine its soundness or results in miscarriage of justice.*
- (v). A review is by no means an appeal in disguise whereby an erroneous decision is re-heard and corrected but lies only for patent error.*



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(vi). *The mere possibility of two views on the subject cannot be a ground for review.*

(vii). *The error apparent on the face of the record should not be an error which has to be fished out and searched.*

(viii). *The appreciation of evidence on record is fully within the domain of the appellate Court, it cannot be permitted to be advanced in the review petition.*

(ix). *Review is not maintainable when the same relief sought at the time of arguing the main matter had been negatived."*

5. Very recently, a Division Bench of the Hon'ble Supreme Court, in ***State of Telangana and Others v. Mohd. Abdul Qasin (Died) Per Legal Representatives [(2024) 6 SCC 461]***, has reiterated the power and scope of review. The relevant portions are extracted as under:-

"24. Section 114 read with Order 47 Rule 1CPC, 1908 is verbatim similar to Section 623 CPC, 1877, except for the



Explanation to Order 47 Rule 1 which was added by way of an amendment in the year 1976. Section 114 CPC, 1908 speaks of the circumstances, instances and situations under which a review can be filed. The words “as it thinks fit” cannot be interpreted to mean anything beyond what is conferred under Order 47 Rule 1. In other words, Section 114 has to be read along with Order 47 Rule 1. While they are to be read together, Section 114 is more procedural, whereas Order 47 Rule 1 is substantially substantive.

25.The words “due diligence”, though one of fact, places onus heavily on the one who seeks a review. ...

26.Mistake or error apparent on the face of record would debar the court from acting as an appellate court in disguise, by indulging in a re-hearing. A decision, however erroneous, can never be a factor for review, but can only be corrected in appeal. Such a mistake or error should be self-evident on the face of record. The error should be grave enough to be identified on a mere cursory look, and an omission so glaring that it requires interference in the form of a review. Being a creature of the statute, there is absolutely no room for a fresh hearing. The court has got no role to involve itself in the process of adjudication for a second time.



Instead, it has to merely examine the existence of an apparent mistake or error. Even when two views are possible, the court shall not indulge itself by going into the merits.

27.The material produced, at this stage, should be of such pristine quality which, if taken into consideration, would have the logical effect of reversing the judgment. Order 47 Rule 1CPC, 1908 indicates that power of review can be exercised by courts, in three different situations, but these occasions ought to be read in an analogous manner. In other words, they should be read in a manner to mean that a restrictive power has been conferred upon the court. As stated, the words “for any other sufficient reason” ought to be read in conjunction with the earlier two categories reiterating the scope. Being a judicial discretion, it has to be exercised with circumspection and on rare occasions. It is a power to be exercised by way of an exception, subject to the rigours of the provision.”

6.In view of the ratio referred above and in view of the discussions made supra, this Court does not find any error apparent on



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the face of the record and as such, there is no scope for reviewing the order dated 26.07.2022 made in CRP(MD)No.731 of 2022.

9.Accordingly, this Review Application is dismissed. No

Costs.

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NCC : Yes / No.

Index : Yes / No.

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