



Review Application (MD) No.37 of 2025 in CRP (MD) No.1130 of 2022

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	31.07.2025
Pronounced on	20.08.2025

CORAM

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

Review Application (MD) No.37 of 2025 &
CMP(MD) No.4196 of 2025
in
CRP (MD) No.1130 of 2022

K. Subramani

...Review Applicant

Vs.

1. Arukkani Ammal Marappa Gounder Trusts
Represented by its Trustee Mr. K. Pandiyan
S/o. PM Karuppanna Gounder.
2. Senthilkumar
3. Sivakannan
4. Prem Anand

... Respondents

Prayer : Review Application filed under Order 47 Rule 1 & 2 r/w
Section 114 of the Code of Civil Procedure, to review the order dated
11.12.2024 made in CRP (MD) 1130 of 2022 on the file of this Court.

For Applicant : Mr.K. Prabhakar

For Respondents : Mr. K. Suresh



Review Application (MD) No.37 of 2025 in CRP (MD) No.1130 of 2022

WEB COPY

ORDER

The Review Application is preferred by the respondent/plaintiff in CRP(MD) No.1130 /2022 challenging the order passed by this Court on 11.12.2024 in the said Civil Revision Petition.

2. The learned counsel appearing for the review applicant submits that the main relief in the suit is for measuring the 'A' schedule property and for delineating the 'B' schedule property based on prior partition deed. The defendants have admitted the partition deed in their written statement and have also admitted the plaintiff's title in the 'B' schedule property. The only substantive objection of the defendants is that the plaintiff's share as well as the defendants share has already been determined and patta was also issued considering their separate possession. While so, the report of the Advocate Commissioner is very much necessary to resolve the dispute between the parties. Hence, the order passed by this Court in CRP(MD) No.1130/2020, observing that Advocate Commissioner cannot be appointed in the present suit as it would amount to grant of pre-trial decree, has to be reviewed.



Review Application (MD) No.37 of 2025 in CRP (MD) No.1130 of 2022

WEB COPY

2.1. He would further submit that the dispute regarding identification of boundary between the two adjacent land owners is certainly a dispute of civil nature and therefore, even in a suit for demarcation of boundary, when the plaintiff himself is uncertain about the precise boundary, appointment of commissioner by court in such situation is appropriate. To support his contention, he has relied upon the judgment of the Hon'ble Supreme Court in *E.Achuthan Nair vs. P.Narayanan Nair and another* reported in *(1987) 4 Supreme Court Cases 71*. His further contention is that when the controversy between the parties is with regard to demarcation of land because the parties had adjacent lands, local commissioner ought to have been appointed for demarcation of land. To support his contention, he has relied upon the judgment of the Hon'ble Supreme Court in *Haryana Waqf Board vs. Shanti Sarup and others* reported in *(2008) 8 Supreme Court Cases 671*.

3. On the other hand, the learned counsel for the respondents



Review Application (MD) No.37 of 2025 in CRP (MD) No.1130 of 2022

WEB COPY

submits that the aforesaid review application is not maintainable for the reason that the petitioner is not entitled to re-argue the matter under the review jurisdiction. His further contention is that review application is maintainable only when there is an error apparent on the face of the record and that this Court cannot rehear the matter under review under any circumstances, especially, when the petitioner has already been given ample opportunity to present his case before passing the order. The learned counsel further submits that the respondents have not admitted the petitioner's title and the admission of partition deed does not amount to admission of the petitioner's title. It is further submitted that it has been specifically stated that, after the partition, an appropriate patta was issued following due enquiry and the petitioner herein accepted the patta issued by the revenue authorities 25 years ago and hence, he cannot claim any title beyond the extent covered under the patta. The plaintiff has to establish before the trial court that he is entitled to more extent of land. Without establishing his title, the petitioner cannot seek for appointment of Advocate Commissioner to demarcate the property. In support of his contention, he has relied upon the following judgments of



Review Application (MD) No.37 of 2025 in CRP (MD) No.1130 of 2022

WEB COPY the Hon'ble Supreme Court.

1. *Parsion Devi and others vs. Sumitri Devi and others* reported in (1997) 8 Supreme Court Cases 715.

2. *S. Madhusudhan Reddy vs. V. Narayana Reddy and others* reported in (2022) 17 Supreme Court Cases 255.

4. Heard on both sides. Perused the records.

5. A review cannot be treated like an appeal in disguise. It is wholly unjustified and exhibits a tendency to rewrite a judgment by which the controversy had been finally decided. The court of review has only a limited jurisdiction circumscribed by the definitive limits fixed by the language used therein. It may allow a review on three specified grounds, namely,

(i) discovery of new and important matter or evidence which, after the exercise of due diligence, was not within the applicant's knowledge or could not be produced by him at the time when the decree was passed,

(ii) mistake or error apparent on the face of the record, and



Review Application (MD) No.37 of 2025 in CRP (MD) No.1130 of 2022

WEB COPY (iii) for any other sufficient reason.

Therefore, even an erroneous decision cannot be a ground for the court to undertake review, as the first and foremost requirement for entertaining a review petition is that the order/review of which is sought, suffers from any error apparent on the face of record and in absence of such error, finality attached to the judgment / order cannot be disturbed. Therefore, as rightly pointed out by the learned counsel for respondents, placing reliance on the judgment referred to by him, under Order 47 Rule 1 CPC, a judgment may be open to review *inter alia* if there is a mistake or error apparent on the face of the record. An error which is not self evident and has to be detected by a process of reasoning can hardly be said to be an error apparent on the face of the record justifying the Court to exercise its power of review under Order 47 Rule 1 CPC. In exercise of the jurisdiction under Order 47 Rule 1 CPC, it is not permissible for an erroneous decision to be "reheard and corrected". A review petition has limited purpose and cannot be allowed to be "an appeal in disguise". Under the guise of review, the petitioner cannot be permitted to re-agitate and re-argue the questions which have already been addressed and



Review Application (MD) No.37 of 2025 in CRP (MD) No.1130 of 2022

WEB COPY decided.

6. In the present case, the plaintiff must establish before the trial court that he is entitled for more extent of land which is not covered under the patta. Without establishing the same, the petitioner cannot seek for appointment of an Advocate Commissioner to demarcate the property which would result in granting of pre trial decree. Moreover, in the judgments referred by the learned counsel for the review petitioner, the facts are different. Therefore, the above decided cases are not applicable to the present case on hand. Hence, the Review Application is dismissed. No costs. Consequently connection miscellaneous petition is closed.

20.08.2025

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
bga

K.GOVINDARAJAN THILAKAVADI,J



WEB COPY



Review Application (MD) No.37 of 2025 in CRP (MD) No.1130 of 2022

bga

Pre delivery order in
Review Application (MD) No.37 of 2025 &
CMP(MD) No.4196 of 2025
in
CRP (MD) No.1130 of 2022

20.08.2025