



REV.APLC(MD)No.85 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 08.01.2025

C O R A M

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

**REV.APLC(MD)No.85 of 2023
and
CMP(MD)No.14943 of 2023**

Hotel Ornate (Nilgiry) Private Limited,
No.310, Veerakarkar Marg,
Dadar, Mumbai,
represented by its Power Agent /
Authorised Signatory,
M.Srinivasan,

... Review Applicant/
Petitioner/

Vs.

Lakshmipriya Nagendran

... Respondent/
Respondent

PRAYER: Review Application is filed under Order 47 Rule 1 and 2 r/w Section 114 of the Code of Civil Procedure, 1908, to allow this review application by recalling the order dated 07.03.2023 in CRP(MD)No.2331 of 2022 against the order in IA.No.235 of 2014 in OS.No.56 of 2014, on the file of the District Munsif cum Judicial Magistrate Court No.1, Kodaikanal.

For Review Applicant : Mr.R.Harinath



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ORDER

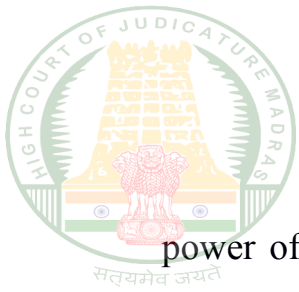
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This application is filed to review the order dated 07.03.2023 passed by this Court in CRP(MD)No.2331 of 2022, which was filed as against the order passed in IA.No.235 of 2014 in OS.No56 of 2024 by the District Munsif cum Judicial Magistrate Court No.I, Kodaikanal, on the ground that there is an apparent error in the order dated 07.03.2023.

2.The scope of review application is very limited that there has to be sufficient reason provided before this court in order to entrain the review application, in view of the following decisions:

a.In *Lily Thomas v.Union of India*, AIR 2000 SC 1650, the Hon'ble Supreme Court has held that the power of review can be exercised for correction of a mistake but not to substitute a view. Such powers can be exercised within the limits of the statute dealing with the exercise of power. The review cannot be treated like an appeal in disguise.

b.In the case of *Patel Narshi Thakershi vs. Pradyumansinghji Arjunsinghji*, (1971) 3 SCC 844, the Hon'ble Supreme Court has held that the



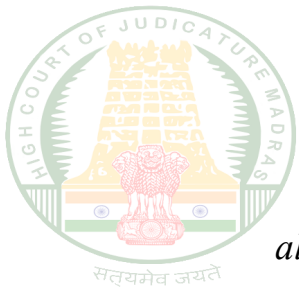
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power of review is not an inherent power. It must be conferred by law either specifically or by necessary implication. The review is also not an appeal in disguise.

c. What can be said to be an error apparent on the face of the proceedings has been dealt with and considered by the Hon'ble Supreme Court in the case of ***T.C. Basappa vs. T.Nagappa, AIR 1954 SC 440*** held that such an error is an error which is a patent error and not a mere wrong decision.

3. Very recently, a Division Bench of the Hon'ble Supreme Court, headed by Hon'ble Mr. Justice M.M. SUNDRESH, 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 1 CPC, 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



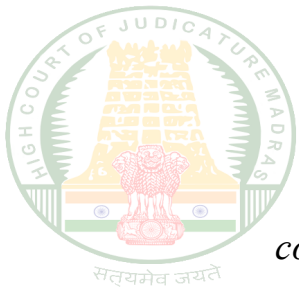
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along with Order 47 Rule 1. While they are to be read together, Section 114 is more procedural, whereas Order 47 Rule 1 is substantially substantive.

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

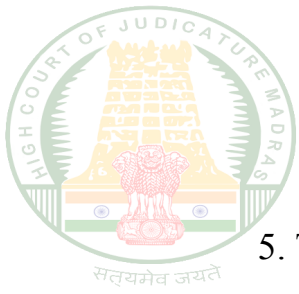


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conferred upon the court. As stated, the words “for any other sufficient reason” ought to be read in conjunction with the earlier two categories reiterating the scope. Being a judicial discretion, it has to be exercised with circumspection and on rare occasions. It is a power to be exercised by way of an exception, subject to the rigorous of the provision.”

4. When this review application was taken up for hearing on 06.11.2023 , this Court after perusing the grounds raised in support of this review application has recorded that the review applicant had not made any ground to review the order passed by this Court. However this Court granted time on the request of the learned Counsel that they were intending to engage a senior counsel. On 27.11.2023 an adjournment has been sought by the learned Senior Counsel. Thereafter adjournments have been sought on behalf of the review applicant on 04.12.2024 and on 19.12.2024. Even on 19.12.2024, this Court has recorded that the review applicant has not made out any ground to review the order passed in CRP (MD) No. 2331 of 2022. This review application is listed for the fifth time. Even now a request is made for the appearance of the Senior Counsel in the review application.



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5. This court, applying the ratio laid down by the Hon'ble Supreme Court in the above cited decisions, considered the grounds raised by the review applicant, which in the considered view of this Court, do not make out a case to review the order passed in CRP(MD)No.2331 of 2022 dated 07.03.2023. Accordingly this review application is dismissed. No costs. Consequently, connected miscellaneous petition also stands dismissed.

08.01.2025

DSK

Internet : yes/No

To

The District Munsif cum
Judicial Magistrate Court No.1,
Kodaikanal.



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B.PUGALENDHI, J

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