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Rev.A.No.97 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.04.2024

CORAM

THE HON'BLE JUSTICE D.KRISHNAKUMAR

AND

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

Rev.A.No.97 of 2024

and

C.M.P.No.9930 of 2024

R.Saraswathi

... Review Petitioner/Respondent
/Writ Petitioner

-VS-

1. The State of Tamil Nadu,
Rep. by its Secretary,
Backward Class and Most Backward Class Welfare Department,
Fort St.George, Chennai-600 009.
2. The District Collector,
Coimbatore District,
Coimbatore.
3. The Special Tahsildar,
Land Acquisition,
Adi Dravidar Welfare Department,
Coimbatore Collectorate.
4. Backward Class, Most Backward Class
and Minority Welfare Officer,
Coimbatore Collectorate.
5. The Special Tahsildar,

1/10



Rev.A.No.97 of 2024

Backward Class, Most Backward Class
and Minority Welfare Officer,

Coimbatore Collectorate.

... Appellants/Respondents

Prayer: Review Application filed under Order XLVII Rule 1 r/w Section 114 of C.P.C., to review the order passed in Writ Appeal No.692 of 2019 dated 27.09.2021.

For Applicant : Mr.S.Venkatesh

For Respondents : Mr.P.Balathandayutham,
Spl. Govt. Pleader

ORDER

The Review Application has been filed to review the judgment dated 27.09.2021 passed in W.A.No.692 of 2019.

2. In the Writ Petition filed by the Writ Petitioner in W.P.No.31844 of 2014, this Court, on 19.12.2014, after considering the submissions made by the respective parties, had allowed the Writ Petition, by holding as under:

"11. On considering the facts and circumstances of the case and arguments advanced by the learned counsels on either side and on perusing the typed-set of papers and this Court's view listed above as (i) to (v), this Court allows the above writ petition. Consequently this Court directs the respondents herein to re-convey the land situated in Coimbatore District, Coimbatore North Taluk, No.12, Kalapatti



Rev.A.No.97 of 2024

Village West, S.No.118/1 to an extent of 1.54 acres, 0.62.5 hectares bounded on North by S.F.No.90, East & South by S.F.No.118/2 and west by S.F.No.86, under the provisions of Section of 48-B of the Land Acquisition Act to the petitioner herein, within a period of three months from the date of receipt of this order, after receiving the 16 compensation amount with accrued interest as per Government rate, from the petitioner.

12. In the result, the above writ petition is allowed. There is no order as to costs. Consequently, connected miscellaneous petition is closed.”

3. Aggrieved by the order of the learned Single Judge, a Writ Appeal in W.A.No.692 of 2019 was preferred by the Government and the Division Bench, by its judgment dated 27.09.2021, while reversing the order of the learned Single Judge, held as follows:

"6.While so, after dismissal of the above four writ petitions, the respondent herein has filed the above W.P. No.31844 of 2014 seeking a direction to the appellants herein to re-convey the land situated in Coimbatore District, Coimbatore North Taluk, No.12, Kalapatti Village West. In the affidavit filed in support of the writ petition, it has been stated by the respondent that the appellants had ultimately passed an Award dated 14.12.2012 and deposited a sum of Rs.15,97,724/- and her other family members received the Award towards their share with protest and the share towards her entitlement was deposited before the Civil Court and she had not received the same till date. Surprisingly, the learned Single Judge, without considering those aspects, had allowed the above writ petition filed by the respondent with a direction to the appellants to re-convey the above land. 7.Moreover, the subject lands had been acquired in the year 1994 and pursuant to the Award passed on 14.12.2012, compensation amount had been deposited by the appellants in the Court of I Additional Sub Judge, Coimbatore on 26.07.2013. When the respondent has deliberately concealed the dismissal of the above writ petitions, we are of the considered view that the respondent has come to this Court with un-cleaned hands. Therefore, this writ appeal



Rev.A.No.97 of 2024

is liable to be allowed. Accordingly, this writ appeal stands allowed.
No costs."

The judgment dated 27.09.2021 made in the Writ Appeal has been sought to be reviewed in this Review Application.

4. The foremost plea taken by the learned counsel for the Review Applicant is that the subject land had been acquired in the year 1994 and after lapse of 18 years, the compensation amount was deposited in pursuance of the award dated 14.12.2012. The Review Application had been in possession of the land and after its sale to third parties, the respondents herein had initiated *lis* and the judgment in the Writ Appeal was passed without hearing the Review Applicant.

5. It is seen that the Writ Petition is of the year 2014 and the judgment in the Writ Appeal was rendered on 27.09.2021, which is admittedly in force and after a delay of more than 500 days, the present Review Application has been filed for reviewing the judgment passed in the Writ Appeal. The Division Bench of this Court in the judgment observed that there were four writ petitions filed previously, which had been



Rev.A.No.97 of 2024

suppressed by the Review Applicant. That Apart, the compensation amount of Rs.15,97,724/- has also been deposited consequent to the award passed.

The New Act, namely, The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (the Act, 2013) also came into force with effect from 31.12.2014, as per which, any person interested, who is dissatisfied with the amount of compensation, can approach the concerned authority by filing necessary application.

6. It is now well settled by a series of decision's of this Hon'ble Court as also the Hon'ble Supreme Court that the scope of review is very minimal and it is circumscribed by the provisions of the statute. In ***R.Mohala Vs. M.Siva and others*** in ***Review Petition No.61 of 2018 and WMP.No.10818 and 10819 of 2018*** decided on ***25.04.2018***, a Division Bench of this Court elaborately discussed the scope of review and in Paragraph Nos.7 and 8, held as follows:

“7.The basic principle to entertain the review under Order 47 Rule 1 C.P.C. is to correct the errors but not to substitute a view. The judgment under review cannot be reversed (or) altered taking away the rights declared and conferred by the Court under the said judgment; once a judgment is rendered, the Court becomes functus officio and it cannot set aside its judgment or the decree; no inherent



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Rev.A.No.97 of 2024

powers of review were conferred on the Court; the review Court cannot look into the trial Court judgment; it can look into its own judgment for limited purpose to correct any error or mistake in the judgment pointed out by the review petitioner without altering or substituting its view in the judgment under review; the review court cannot entertain the arguments touching the merits and demerits of the case and cannot take a different view disturbing the finality of the judgment; the review cannot be treated as appeal in disguise, as the object behind review is ultimately to see that there should not be miscarriage of justice and shall do justice for the sake of justice only and review on the ground that the judgment is erroneous cannot be sustained.

8. It is settled law that even an erroneous decision cannot be a ground for the Court to undertake review, as the first and foremost requirement of entertaining a review petition is that the order under review of which is sought, suffers from any error apparent on the face of the order and in absence of any such error, finality attached to the judgment/order cannot be disturbed.”

7. The Hon'ble Supreme Court in a recent decision reported in

2023 SCC Online SC 1406 Review Petition(Civil)No.1620 of 2023 in Civil

Appeal No.1661 of 2020 (Sanjay Kumar Agarwal Vs. State Tax Officer

and another) in paragraph No.16 has laid down the law relating to the

entertainment of review application which is extracted as follows:

“16. The gist of the afore-stated decisions is that:-

(i) A judgment is open to review inter alia if there is a mistake or an error apparent on the face of the record.

(ii) A judgment pronounced by the Court is final, and departure from that principle is justified only when circumstances of a substantial and compelling character make it necessary to do so.

(iii) 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



WEB COPY



Rev.A.No.97 of 2024

on the face of record justifying the Court to exercise its power of review.

(iv) In exercise of the jurisdiction under Order 47, Rule 1 CPC, it is not permissible for an erroneous decision to be “reheard and corrected.”

(v) A Review Petition has a limited purpose and cannot be allowed to be “an appeal in disguise.”

(vi) Under the guise of review, the petitioner cannot be permitted to reagitate and reargue the questions which have already been addressed and decided.

(vii) An error on the face of record must be such an error which, mere looking at the record should strike and it should not require any long-drawn process of reasoning on the points where there may conceivably be two opinions.

(viii) Even the change in law or subsequent decision / judgment of a co-ordinate or larger Bench by itself cannot be regarded as a ground for review.”

8. In view of the afore-stated deliberations, we are of the considered opinion that the Review Application is not maintainable and the same is liable to be dismissed. At this juncture, learned counsel for the Review Applicant seeks liberty of this Court to approach the concerned Authority under the New Act, 2013.

9. In fine, finding that no *prima facie* case is made out to review the order passed in the Writ Appeal, this ***Review Application is dismissed***. It is open to the Review Applicant to approach the concerned



Rev.A.No.97 of 2024

Authority for redressal of her grievance as per law, in consonance with the relevant provisions of the Act, 2013. No costs. Consequently, connected miscellaneous petition is closed.

[D.K.K,J.,] [T.V.T.S,J.,]
26.04.2024

Index: Yes / No
Internet: Yes / No
Speaking Order/Non-Speaking Order
ar

To:

1. The Secretary,
State of Tamil Nadu,

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Rev.A.No.97 of 2024

Backward Class and Most Backward Class Welfare Department,
Fort St.George, Chennai-600 009.

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