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REV.APPL.Nos.306, 307 &309 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2024

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

REV.APPL.Nos.306, 307 & 309 of 2014

against

W.A.Nos.322, 320 & 321 of 2014

1.Smt.P.K.Umaiba

... Applicant
in Rev.Appl.No.306/2024

2.Smt.Rukhiya

... Applicant
in Rev.Appl.No.307/2024

3.Abdul Majeed

... Applicant
in Rev.Appl.No.309/2024

Vs.

1.The Registrar,

The Appellate Tribunal for Forfeited Property,
4th Floor, Lok Nayak Bhavan, Khan Market,
New Delhi – 110 002.

2.The Competent Authority,

Smugglers and Foreign Exchange Manipulators,
(Forfeiture of Properties) Act, 1976,
Utsav, No.1, 64/1, G.N. Chetty Street,
Chennai – 17.

... Respondents
in 3 Rev.Appls.



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Prayer in Rev.Appl.No.306/2024: Review Application filed under Order XLVII Rules 1 and 2 read with Section 114 of Civil Procedure Code, to review the judgment dated 19.08.2024 in W.A.No.322 of 2014 by this Court.

Prayer in Rev.Appl.No.307/2024: Review Application filed under Order XLVII Rules 1 and 2 read with Section 114 of Civil Procedure Code, to review the judgment dated 19.08.2024 in W.A.No.320 of 2014 by this Court.

Prayer in Rev.Appl.No.309/2024: Review Application filed under Order XLVII Rules 1 and 2 read with Section 114 of Civil Procedure Code, to review the judgment dated 19.08.2024 in W.A.No.321 of 2014 by this Court.

For Applicants	: Dr.A.Thiagarajan Senior Counsel For Mr.S.Aravind Raj (in 3 Rev.Appls)
For R1	: Tribunal (in 3 Rev.Appls)
For R2	: Mr.N.Ramesh Special Public Prosecutor [Enforcement Directorate] (in 3 Rev.Appls)



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COMMON ORDER

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[Order of the Court was made by **S.M.SUBRAMANIAM, J.**]

Review Applications have been instituted to review the common judgment of this Court dated 19.08.2024 passed in W.A.Nos.320 to 322 of 2014.

2. Dr.A.Thiagarajan, the learned Senior Counsel representing Mr.S.Aravind Raj, learned counsel on record for the applicants made a submission that the reasons recorded for issuing supplementary notices under Section 6(1) of the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 SAFEMA is improper.

3. The learned Senior Counsel would submit that since the initial notice issued under Section 6(1) was dropped, the subsequent supplementary notice cannot be sustained.

4. In respect of the ground raised in the present review applications, Mr.N.Ramesh, learned Special Public Prosecutor appearing on behalf of the



Enforcement Directorate, drew the attention of this Court to the fact that the said point was previously considered by this Court during the elaborate arguments advanced by the learned Senior Counsel Mr.B.Kumar during the hearing of the writ appeal. The findings in this regard are recorded in paragraph 31(c) of the judgment, which reads as follows:

“31. (a).....

(b).....

(c) In the 2nd notice issued to Mr.K.P.Abdul Majeed and to Smt.Umaiba, it was mentioned on the head as “supplementary notice”. No such mention is there in the notice issued to Smt.Rukhiya. This was done in order to maintain the continuity of the file in the competent authority's office and to remind that there is prior notice in respect of two persons.”

5. This Court considered these issues on merits elaborately after hearing the parties. During the course of hearing, when this Court posed a question to Dr.A.Thiagarajan, the learned Senior Counsel, and Mr.S.Aravind Raj, learned counsel on record, whether they have obtained a “no objection” from the learned counsel, who appeared in the writ appeal. Their response was “negative”.



6. The learned counsels appeared in the writ appeals admittedly not filed the present review applications. Instead, the review applications are filed by engaging new counsels.

7. Question arises, whether different counsel can be permitted to file review applications when they have no knowledge about the arguments advanced by the learned Senior Counsel in the writ appeals.

8. The Hon'ble Supreme Court of India in the case of ***Tamil Nadu Electricity Board and Another vs. N.Raju Reddiar and Another***¹, held as follows:

“1. It is a sad spectacle that a new practice unbecoming and not worthy of or conducive to the profession is cropping up. Mr Mariaputham, Advocate-on-Record had filed vakalatnama for the petitioner-respondent when the special leave petition was filed. After the matter was disposed of, Mr V. Balachandran, Advocate had filed a petition for review. That was also dismissed by this Court on 24-4-1996. Yet another advocate, Mr S.U.K. Sagar, has now been engaged to file the present application styled as “application for clarification”, on the specious plea that the order is not

1. (1997) 9 SCC 736



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clear and unambiguous. When an appeal/special leave petition is dismissed, except in rare cases where error of law or fact is apparent on the record, no review can be filed; that too by the Advocate-on-Record who neither appeared nor was party in the main case. It is salutary to note that the court spends valuable time in deciding a case. Review petition is not, and should not be, an attempt for hearing the matter again on merits. Unfortunately, it has become, in recent time, a practice to file such review petitions as a routine; that too, with change of counsel, without obtaining consent of the Advocate-on-Record at earlier stage. This is not conducive to healthy practice of the Bar which has the responsibility to maintain the salutary practice of profession. In Review Petition No. 2670 of 1996 in CA No. 1867 of 1992, a Bench of three Judges to which one of us, K. Ramaswamy, J., was a member, had held as under:

“The record of the appeal indicates that Shri Sudarsh Menon was the Advocate-on-Record when the appeal was heard and decided on merits. The review petition has been filed by Shri Prabir Chowdhury who was neither an arguing counsel when the appeal was heard nor was he present at the time of arguments. It is unknown on what basis he has written the grounds in the review petition as if it is a



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rehearing of an appeal against our order. He did not confine to the scope of review. It would not be in the interest of the profession to permit such practice. That apart, he has not obtained 'No Objection Certificate' from the Advocate-on-Record in the appeal, in spite of the fact that Registry had informed him of the requirement for doing so. Filing of the 'No Objection Certificate' would be the basis for him to come on record. Otherwise, the Advocate-on-Record is answerable to the Court. The failure to obtain the 'No Objection Certificate' from the erstwhile counsel has disintitiled him to file the review petition. Even otherwise, the review petition has no merits. It is an attempt to reargue the matter on merits.

2. Once the petition for review is dismissed, no application for clarification should be filed, much less with the change of the Advocate-on-Record. This practice of changing the advocates and filing repeated petitions should be deprecated with a heavy hand for purity of administration of law and salutary and healthy practice.

9. Regarding the scope of review application, the principles have been considered by the Hon'ble Supreme Court in the case of **Kamlesh Verma vs.**



*Mayawati and Others*², wherein, the Apex Court held that “Repetition of old and overruled arguments is not enough to reopen concluded adjudications, and the mere possibility of two views on the subject cannot be a ground for review. It is also observed that appreciation of evidence on record is fully within the domain of the Court and cannot be permitted to be advanced in a review application”.

10. In the case of *Dr.Subramanian Swamy vs. State of Tamil Nadu and Others*³, the Apex Court held that “Thus, 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, review of which is sought, suffers from any error apparent on the face of the order and in the absence of any such error, finality attached to the judgment/order cannot be disturbed”.

11. In the present case, the learned Senior Counsel Dr.A.Thiagarajan would raise the ground that supplementary 6(1) notice issued is improper, since the initial notice under Section 6(1) of SAFEMA was dropped. This

2. (2013) 8 SCC 320

3. (2014) 5 SCC 75



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ground was elaborately argued by the learned Senior Counsel Mr.B.Kumar in the writ appeals, and this Court considered the said ground and made a finding as stated above in paragraph 31.

12. That being so, we do not find any reason to entertain the review applications, as the review applicants have not established any error apparent on face record warranting to invoke the power of judicial review. Equally, we cannot appreciate the counsels who are filing the review petitions/applications without the knowledge of the counsels who argued the main matter, as this was not approved by the Hon'ble Supreme Court of India in the case of **N.Raju Reddiar** cited *supra*. For all these reasons, the Review Applications are dismissed. No costs.

[S.M.S., J.] [C.K., J.]
13.12.2024

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Index : Yes
Speaking order / Non-speaking order
Neutral Citation : Yes



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