

DATE: 13-01-2015

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

REVIEW APPLICATION (WRIT) NO.264 OF 2014

1. The Government of Tamil Nadu,
Rep. by its Secretary to Government,
Commercial Taxes & Registration Department,
Secretariat, Fort St.George, Chennai-9.
2. The Inspector General of Registration,
100, Santhome High Road,
Pattinapakkam, Chennai-600 028.

Versus

CREDAI TAMIL NADU,
Rep. by its President N.Nandakumar,
11, Sir Thiyagaraya Road,
T.Nagar, Chennai-600 017. .. Respondents

Prayer: This Review Application has been filed under Order 47 Rule 1 CPC read with Section 114 CPC, praying to review the order, dated 13.8.2014 made in W.P.No.33958 of 2013,

For Petitioners : Mr.Rajendra Prasad, GA

For Respondent : Mr.Sathish Parasaran

ORDER

By order, dated 13.08.2014, this Court allowed the above said writ petition in W.P.No.33958 of 2013, holding that the Circular No.189/C1/2013, dated 2.2.2013 issued by the Inspector of General of Registration, is illegal and arbitrary and consequently, the same was set aside.

2. The learned Government Advocate would canvass the grounds to review the order, viz., that the Inspector General of Registration is empowered to issue Circulars by virtue of Section 69 of the Registration Act and there is no need to obtain orders from the government; that the impugned circular has been issued in order to curb the fraudulent registration where even after the death of the principal, power of attorneys are indulged in registering the documents and that the validity and competency in issuing the circulars has been discussed and upheld by the Madurai Bench of this Court in batch of Writ petitions in W.P.(MD) No.5908 of 2012 etc., Therefore, the learned Government Advocate prays this Court to review the order.

3. On a perusal of the order, it is revealed that in fact, the above points were considered and dealt with in extenso by this Court, both by law and on facts and in law. The impugned Circular came to be set aside by this Court, holding that the Inspector General of Registration cannot travel beyond the scope of the statute and he cannot issue the Circulars beyond the scope and inconsistent with the provisions of the statute. However, he is empowered to make rule by virtue of Section 69(2) of the Act and enact the same after getting approval from the State Government and on its publication by way of notification in TN gazette. The learned Government Advocate, has nothing but, under the guise of review, re-canvassing the issues which were already decided in the order.

4. To maintain the review application, the review petitioner must satisfy the three requirements of Order 47 Rule 1 of C.P.C. i.e.

- i) From discovery of new and important matter or evidence which after exercise of due diligence was not within his knowledge (or) could not be produced by him at the time when the decree was passed (or) order made;
- ii) There is some mistake (or) error apparent on the face of the record in the judgment under review; and
- iii) Or any other sufficient reasons.

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 judgment is rendered the Court becomes functus officio and it cannot set aside its judgment or the decree. No inherent 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.

Review on the ground that the judgment is erroneous cannot be sustained.

5. Having regard to the above, this Court is of the view that there

is no need to review the order.

6. 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, 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. In "***Shanmuga Sundara Nadar versus Tamil Nadu Housing Board, rep. by its Chairman, Madras and others***", reported in 1988 (2) L.W. 57 (MAD.) this Court held as under:-

"The power to review is a restricted power which authorises the Court to look through the judgment not in order to substitute a fresh or second judgment but in order to correct it or improve it, because some material which it ought to have considered has escaped consideration or failed to be placed before it for any other reason or because it suffers from a patent error which cannot be sustained by any process of reasoning. The Court cannot under cover of review arrogate to itself the power to decide the case over again because it feels then that the assessment of evidence, etc., done formerly was faulty or even incorrect. An erroneous view of evidence of law is not a ground for review. A wrong exposition of the law, a wrong application of the law and

failure to apply the correct law have been held to be not a ground for review."

8. In "***Meera Bhanja versus Nirmala Kumari Choudhury***" reported in (1995) 1 SCC 170, the Hon'ble Supreme Court while considering the scope of review power of High Court, under Order 47, Rule 1, C.P.C. held as under:

"The review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of Order 47, Rule 1 C.P.C. The review petition of error apparent on the face of the record and not on any other ground. An error apparent on the face of the record must be such an error which must strike one on mere looking at the record and would not require any longdrawn process of reasoning on points where there may conceivably be two opinions. The limitation of powers on court under Order 47, Rule 1, C.P.C. is similar to jurisdiction available to the High Court while seeking review of the orders under Article 226."

9. Having regard to the above, this Court does not find any error apparent on the face of the order in order to entertain the present review application.

Accordingly, this Review Application is dismissed. No costs.

Suk

13.01.2015

S.VAIDYANATHAN, J.

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13.1.2015