

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2015

CORAM

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE

AND

The Hon'ble MRS.JUSTICE PUSHPA SATHYANARAYANA

Review Application No.118 of 2012

in

W.P.No.5763 of 2009

Double Tank Colony Flat Owners'
House Service Society (MIG),
rep. by its Secretary,
Regd.No.320/83, Model House Road,
K.K.Nagar,
Chennai-600 078.

.. Applicant

Vs.

- 1.The Managing Director,
Tamil Nadu Housing Board,
Nandanam, Chennai-600 035.
- 2.The Executive Engineer and ADO,
K.K. Nagar Division,
Tamil Nadu Housing Board,
Ashok Nagar, Chennai-600 083.
- 3.Double Tank HIG Flat Owners' Association,
rep. by its Secretary,
Regd. No.263/88,
Dr.A.Ramasamy Salai,
Double Tank Colony,
K.K.Nagar, Chennai-600 078.

4.The Commissioner,
Corporation of Chennai,
Rippon Building, EVR Salai,
Chennai-600 003.

.. Respondents

(4th respondent impleaded as per the order
in M.P.No.1/2013, dt. 17.12.2013)

Review Petition filed under Order XLVII Rule 1 read with
Section 114 of the Code of Civil Procedure against the order made in
W.P.No.5763 of 2009, dated 11.06.2009.

For Applicant : Mr.AR.L.Sundaresan
Senior Counsel
for
Mr.J.Ravindran

For Respondents : Mr.V.Anandhamurthy for R1 & R2
Mrs.Hemasampath
Senior Counsel
for
Mrs.R.Meenal for R3

Mr.V.C.Selvasekaran for R4

ORDER

(Order of the Court was made by The Hon'ble Chief Justice)

Heard the learned counsel for parties at length.

2. A small problem becomes a never ending battle
between two neighbours, preventing them from living peacefully.

3. The problem is aggravated by the fact that the HIG block is built over a smaller land area, while in case of the MIG block, though the construction is not over much of an area, there is an adjacent land which is paid for by the MIG flat owners.

4. The problem which is faced by the HIG flat owners arises from the management of the common area by the MIG flat owners, which in turn creates the problem of access to the owners of HIG or the persons visiting them. This is so as there is practically one gate through which the entry has to be made.

5. The learned counsel for parties are ad idem that the roads must be free from encroachment and the access to the HIG flat owners or their visitors should be unhindered. Thus, if any construction has been made on the ear-marked road portion, that has to be removed. The learned Senior Counsel for the applicant/MIG flat owners undertakes to the Court that all such obstructions will be removed within a period of three weeks, including the temple. In case both parties are agreeable to maintain the temple, the same may be feasible on a written consent of the Association of HIG flat owners.

6. The Corporation and the Tamil Nadu Housing Board will inspect the common areas and the roads within a period of two weeks and thereafter ensure that all the roads are clear of any encroachments and of the requisite width as envisaged in the original plan. If it is not so, they shall forthwith proceed to take appropriate action without any further notice to any of the parties and the cost be recovered from the MIG flat owners.

7. The learned Senior Counsel for the applicant, on instruction undertakes on behalf of the MIG flat owners that there shall be no obstruction of any manner whatsoever in the access of the MIG flat owners or their visitors from using the roads and the gates. This undertaking is accepted on the pain of contempt for violation.

8. In view of the aforesaid and the changed circumstances arising from the Full Bench decision of this Court in ***Tamil Nadu Housing Board, rep. by its Managing Director, Anna Salai, Nandanam, Chennai-600 035 v. Mary Rani Immanuel and others***, reported in **2013 (3) CTC 129**, the requirement of handing over the roads to the Corporation would not arise, which is really the primary prayer of the applicant in the present Review Application.

9. The Review Application, accordingly, stands disposed of.

No costs.

10. List for compliance on 05.02.2016 when the Corporation and the Tamil Nadu Housing Board will file the compliance report three days before the date of hearing along with the inspection report, site plan and the photographs.

(S.K.K., C.J.) (P.S.N., J.)
18.11.2015

Index : Yes/No
Internet : Yes/No

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The Hon'ble Chief Justice
and
Pushpa Sathyanarayana, J.

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