

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.08.2017

CORAM

THE HON'BLE MS. INDIRA BANERJEE, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE M.SUNDAR

Review Application (Writ) No.226 of 2017

1. Chinnapaiyan
2. Sakthivel .. Applicants

Vs.

1. C.Munusamy
2. The District Collector
Dharmapuri District
Dharmapuri.
3. The Thasildar
Palacode Taluk
Dharmapuri. .. Respondents

PRAYER: Review Application to review the order dated 21.4.2017
made in W.P.No.9795 of 2017.

For Applicants : Mr.D.Ramesh Kumar

For Respondents : Mrs.Vasudha Thiagarajan
Addl. Government Pleader
for respondents 2 and 3

No appearance
for 1st respondent

ORDER

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

This is an application for review of an order dated 21.4.2017 passed by this Bench, which is extracted herein below for convenience:

"This writ petition has been filed by the petitioner seeking a writ of mandamus directing respondents 1 and 2 to consider and pass suitable orders on petitioner's representation dated 08.02.2017.

2. Mr.M.K.Subramanian, learned Government Pleader accepts notice for respondents 1 and 2.

3. The third and fourth respondents are private respondents, who are alleged to have encroached upon S.No.16/2 measuring an extent of 3.20 hectares situated at Periyannur Village, Dharmapuri District, which was allotted for public purpose.

4. The office of the second respondent shall cause an inspection of the site in question i.e., Survey No.16/2 situated at Periyannur Village, Dharmapuri District, to be made within a fortnight from the date of receipt of copy of this order and if any encroachment is found, respondent Nos.1 and 2 shall take action in accordance with law, after giving notice to all concerned, particularly respondents 3 and 4 before us, and conclude the proceedings within a period of two months thereafter.

5. The writ petition, accordingly, stands disposed of. No costs."

2. The operative portion of our order is contained in paragraph (4). The office of the third respondent herein was directed to cause an inspection of the site in question i.e., Survey No.16/2 situated at Periyannur Village, Dharmapuri District, within a fortnight from the date of receipt of a copy of the order under review and **to take action in accordance with law, if any encroachment was found, after giving notice to all concerned, particularly respondents 3 and 4**, i.e., the applicants for review.

3. An order in a writ petition under Article 226 of the Constitution of India can be reviewed on grounds similar to those contained in Order XLVII Rule 1 of the Civil Procedure Code. A party to a writ petition, aggrieved by a judgment and/or order of the writ court, may apply for review upon discovery of new and important materials which, after exercise of due diligence, was not within his knowledge or could not be produced by him at the time of pronouncement of the judgment and/or order under review, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason.

(4)

4. Even though the Civil Procedure Code may not apply to writ proceedings, the principles apply. A party to a writ petition cannot in the garb of an application for review re-agitate the issues involved in the writ petition. Nor can a Court reviewing an order, in effect and substance, sit in appeal over its own judgment and/or order under review.

5. On a perusal of the order under review, there is no such error in the order which can cause any grave prejudice or miscarriage of justice to the applicants. The respondent authorities were merely directed to inspect the site in question and to take action in accordance with law if any encroachment was found and that too after notice to the applicants. It is not in dispute that the applicants have been put on notice, though that fact is not relevant in the context of review of our order dated 21.4.2017.

The review application is, thus, dismissed. Consequently, W.M.P.No.22111 of 2017 is closed.

(I.B., C.J.) (M.S., J.)
08.08.2017

Index : No
Internet : Yes

sasi

To:

1. The District Collector
Dharmapuri District
Dharmapuri.
2. The Thasildar
Palacode Taluk
Dharmapuri.



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(6)

THE HON'BLE CHIEF JUSTICE
AND
M.SUNDAR,J.

(sasi)



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