

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.11.2017

CORAM

**THE HONOURABLE DR. JUSTICE S.VIMALA
AND
THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM**

REVIEW APPLICATION No.58 of 2017

R.Muthukrishnan

... Applicant

Versus

The Registrar (Administration)
High Court of Judicature at Madras
High Court Campus
Chennai - 600 104.

... Respondent

Review Application filed under Section 114 Order XLVII Rule 1 of the Code of Civil Procedure, 1908 to review at once its Judgement, dated 20.01.2017 in Writ Appeal No.980 of 2015 and CMP SR No.32206 of 2016 in W.A. No.980 of 2015 rendered by the Hon'ble Mr.Justice Nooty Ramamohana Rao and the Hon'ble Mr.Justice S.M.Subramaniam dismissing the Writ Appeal and the CMP as meritless with costs of Rs.500 (hereinafter referred to as the "JUDGEMENT").

For Applicant : Mr.S.R. Muthukrishnan
Party-in-person

For Respondent : Mr.C.T.Mohan

ORDER

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

The Review Application is preferred against the Judgment passed

by the Division Bench of this Court on 20.01.2017 in Writ Appeal No.

2. The Review Applicant, appearing in person submits that there is a mistake or error apparent on the face of the record in respect of Judgment delivered by the Hon'ble Division Bench on 20.01.2017, in Writ Appeal No. 980 of 2015.

3. The Review Applicant made a sincere attempt to establish before this Court that the Registry has earlier raised an objection in relation to the maintainability of the Writ Appeal filed by the appellant in W.A. No.980 of 2015. However, he pleads that there is nothing on record to show that the maintainability of the Writ Appeal had ever been challenged by the respondent in this Review Application namely Registrar (Administration) or by the Registry of High Court of Judicature at Madras. In this regard the conclusion as recorded in the last sentence of paragraph No.3 of the Judgment, reads as under :-

"The Registry has raised an objection about the maintainability of this Appeal" is a mistake or error apparent on the face of the record.

4. Further, it is contended in paragraph No.5 of the judgment, which reads as under :

"for the above mentioned reasons, we see no merit in the Writ Appeal and accordingly, we dismiss the Writ Appeal and impose token costs of Rs.500/- to be paid by the writ petitioner / appellant within fifteen days from today to the Madras High Court Legal Services Authority. Consequently, CMP NoSR.32206 of 2016, is also dismissed".

5.Citing the above paragraphs of the Judgment, the Applicant made a submission that the Registrar (Administration) of the Madras High Court had actively participated in the enquiry, contested the Appeal and thus it is a mistake or error apparent on the face of the record. Even the Applicant has gone to the extent of objecting the initial paragraphs of the Judgment, which reads as under :

"the writ appeal coming on for orders as to admission on this day, upon perusing the Grounds of Appeal, the order of the Honourable Mr.Justice T.S.Sivagnanam, dated 7/1/2015 and made in the exercise of Special Original Jurisdiction of the High Court in Writ Petition No.66 of 2015 and all other papers material to this case, and upon hearing the arguments of Mr.Muthukrishnan, Party-in-person and of Mr.C.T.Mohan, Advocate for the respondent, the Court made the following order :-

Further, three weeks time, as requested is granted to the respondent to file counter affidavit. Two weeks thereafter, to the petitioner-in-person to file re-joinder, if any. Call after four weeks for final disposal".

6.The Review Applicant, appearing in person in this Review Application has contended that the earlier orders passed in respect of the Writ Appeal has not been taken note of. In this regard, the Applicant is of the opinion that the Judgment delivered in the Writ Appeal is a misconstruction in respect of the maintainability objection raised by the Registry of this Court against CMP No. 32206 of 2016 in W.A.No.980 of 2016.

7.The Review Applicant made a complaint that inspite of several hearings, no sufficient opportunity was given for adjudicating all the

documents in relation to the merits of his case. Thus, the Review Applicant emphasized that a review in this regard is required, so as to conduct an effective adjudication in this matter in its entirety, in order to consider all the documents submitted by the Review Applicant. According to the Review Applicant, the Division Bench of this Court had not considered the entire arguments made by him, at the time of hearing of the Writ Petition. In other words, the Review Applicant made an attempt to impress upon this Court by contending that inspite of several adjournments granted for the purpose of hearing the writ Appeal, the entire documents and the materials submitted by the petitioner were not considered and not adjudicated in complete form. Thus, according to the Review Applicant, the case requires an effective re-adjudication at the hands of this Division Bench and therefore, the earlier order passed by this Court in the Writ Appeal on 20.01.2017, is to be set aside.

8. We have carefully gone through the grounds raised in this Review Application. The Review Applicant, is none other than a practicing Advocate, is appearing in person in the Review Application.

9. The learned counsel appearing on behalf of the respondent opposed the contentions made by the Review Applicant, by stating that the case of the Review Applicant was considered carefully and elaborately at length by the earlier Division Bench of this Court, before passing the final orders in the Writ Appeal. Further, the learned counsel for the respondent invited the attention of this Court that the Writ Appeal was argued on several

occasions and the Review Applicant undoubtedly availed the opportunities accorded by the earlier Division Bench of this Court. This apart, the Review Applicant made his submissions at length at the time of hearing of the Writ Appeal. Thus, the Review Applicant, has not produced any new materials for consideration in this Review Application.

10.The learned counsel appearing for the respondent further brought to the notice of this Court by stating that the Hon'ble Committee constituted by the High Court in this regard also resolved that all the Electrical Fittings, including Tube Lights are to be replaced only by the respective allottees and the High Court will not incur the cost of such replacement of Electrical Fittings, including Tube Lights. The Electrical Fittings, including Tube Lights are under usage of the respective allottees and even the said point was considered and adjudicated by the Division Bench in its Judgment delivered in Writ Appeal No.980 of 2015.

11.We have carefully gone through the Judgment delivered in Writ Appeal No.980 of 2015, in its entirety.

- WEB COPY
- a) Para 4 sub clause (i) of the Judgment elaborately deals with the administrative set up of the Hon'ble Courts in our Great Nation.
 - b) Para 4 sub clause (ii) deals with the powers of the High Court to generate financial resources and the utilisation of the same.
 - c)Para sub clause (iv) deals with the contentions of the review applicant by stating as follows :

(iv) It is no doubt true that a licence fee at the rate of Rs.4/- per sq. ft. might have been charged from each of the allottees, that was only an insignificant amount charged for recouping an equally insignificant part of the huge capital expenditure incurred by the State. The maintenance charge at the rate of Rs.2/- per sq. ft. is obviously charged to maintain Building. Every multi storied building and every building where large numbers of men and women spend considerable amount to time, are required to be provided with certain common facilities in the form of corridors, staircases, lifts, elevators, wash rooms, etc. There must be men deployed to attend to these facilities for operationalizing them on day-to-day basis and also attend to their periodical maintenance works. The expenditure incurred in that regard including some of the consumables used such as disinfectants, detergents, deodorants etc., has also to be defrayed and for that purpose, the maintenance charges are collected".

- d) Para 4 Sub clause (v) also deals with the factual contentions raised by the Review Applicant.
- e) Para 4 Sub Clause (vi) provides a comparative statement in relation to the other High Courts of our Nation.
- f) Para 4 Sub Clause (vi) also provides that all other High Courts are also following the same procedures and practices.

12. Though the review applicant had raised a point that in the observation of the Division Bench's Judgment, the State of Tamil Nadu or Union of India have not been impleaded is incorrect, the Division Bench has considered all those aspects, the merits of the pleadings and the contentions raised by the applicant in that regard and delivered the Judgment at length.

13. It is the trite law that the Review Application can be maintained under any of the ingredients of Order 47 Rule 1 CPC and more importantly when there is a mistake or error apparent on the face of the record. The grounds of Review Application filed by the Review Applicant have not made out any single ground for reviewing the Judgment delivered in the Writ Appeal. No defect or error apparent on the face of the record has been made out in the Review Application. Thus, we are of the opinion that the grounds of Review Application filed by the Review Applicant did not attract any of the provisions of the Code of Civil Procedure and in fact they are the grounds for preferring Appeal against the Judgment made in the Writ Appeal.

14. We are of the strong opinion that reviewing the Judgment on the error apparent on the face of record is distinct from an erroneous decision. The Review jurisdiction can never be used as an 'Appellate Jurisdiction' and the word 'mistake' or 'error' apparent on the face of the record in the Judgment. Under Order 47 Rule 1 of CPC, the Judgment may be opened to review, *inter alia*, if there is a 'mistake' or 'error' apparent on the face of the record. 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 on the face of the record justifying the Court to exercise its power of review in exercise the jurisdiction under Order 47 Rule 1 of CPC. It is not permissible for an erroneous decision to be 're-heard and corrected'. There is a clear distinction between an 'erroneous decision' and an 'error apparent on the face of the record'.

15.The error which was initially mentioned can be corrected by the higher Forum and the subsequent error can be corrected by exercise of Review jurisdiction. A Review Application has a limited purpose and cannot be allowed to be an Appeal in disguise. It is held by Courts across the Country that where grounds enumerated under Order 47 Rule 1 of CPC, is necessary for review or wanting, a Review Application would not lie.

16.The Review Application is not a process of re-hearing of the whole matter which had been earlier finally disposed of and the Review Application filed by the applicant herein exactly attempting to do the same. The question whether a Review Application should be accepted or rejected has to be decided with reference to the grounds on which review is permissible and not on the merits of the claim. The Review Application is only for the correction of mistake and not for substitution of views.

17.A point which may be a good ground for an Appeal need not be a good ground for an Application for Review. An erroneous view of evidence or of law is not ground for a review, though, it may be a good ground for an Appeal. The Hon'ble Supreme Court in **THE UNION OF INDIA & ORS V. B.VALLUVAN & ORS [AIR 2007 SC 210]**, held that an error apparent on the face of the record and would not require any long drawn process of reasoning on points where there may conceivably be two options. Seeking a different finding on the very same evidence in the absence of any apparent error on the face of the record is impermissible.

18. On a perusal of the grounds for review raised in this Review Application, we are of the considered opinion that the applicant has not made out any case for review. Further, this Court is of the firm opinion that a wrong Judgment will not be a ground for a person to file a Review Application. A wrong Judgment can be a ground for preferring an appeal and it can never be a ground for filing the Review Application. This apart in a Review Application, this Court cannot adjudicate the matter on merits or the Review Application cannot be construed as an Appeal so as to adjudicate the entire matter which was adjudicated earlier, by this Court. Thus, we are of the opinion that the Review Applicant has not established any error apparent on the face of record as far as the Judgment of the Division Bench rendered in Writ Appeal No.980 of 2015, dated 20.01.2017, is concerned. Thus, no further adjudication on the grounds raised in this Review Application deserves to be undertaken.

19. Accordingly, the Review Application stands dismissed. No costs.

WEB COPY [S.V.J.] [S.M.S.J.]
06.11.2017

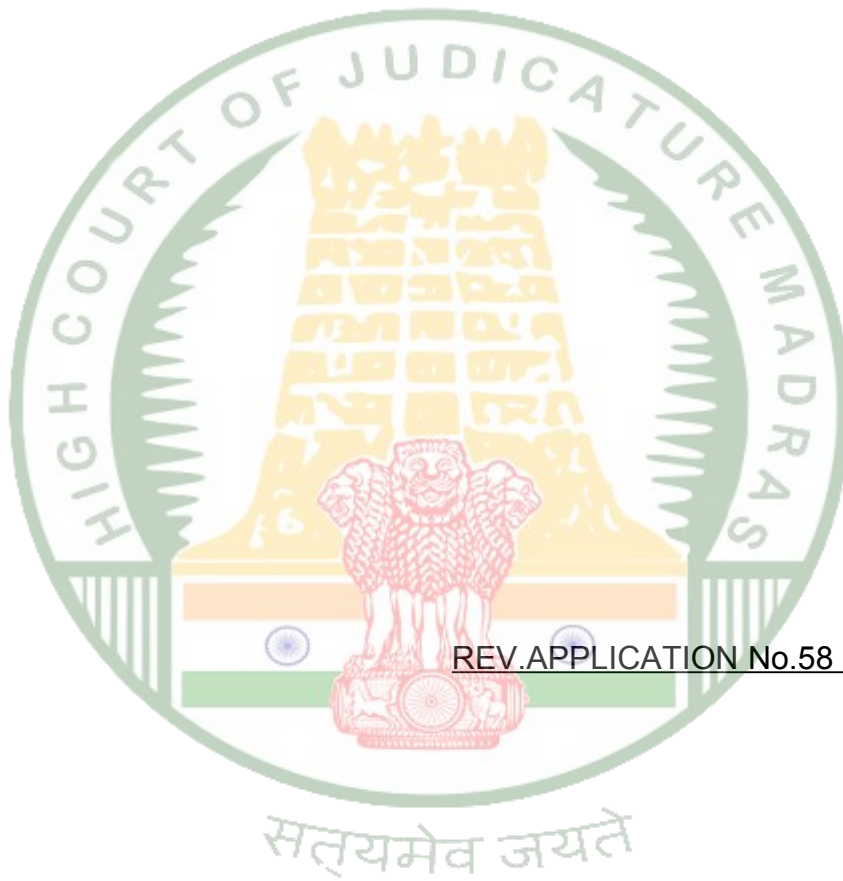
Index : Yes / No
Internet : Yes / No
Speaking/Non speaking
vsi2/rpa
To
The Registrar (Administration)
High Court of Judicature at Madras
High Court Campus
Chennai - 600 104.

Dr.S.VIMALA, J.

and

S.M.SUBRAMANIAM, J.

rpa



REV.APPLICATION No.58 of 2017

WEB COPY

06.11.2017