

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.02.2022

CORAM:

THE HON'BLE MR. JUSTICE M.DURAI SWAMY
and
THE HON'BLE MR. JUSTICE A.A.NAKKIRAN

Review Application No.194 of 2017
against W.A.No.174 of 2015
and C.M.P.No.17888 of 2017 in
Review Application No.194 of 2017

1. The Tamil Nadu Housing Board,
rep by its Chairman & Managing Director
No.331, Anna Salai, Nandanam,
Chennai - 600 035.
2. The Executive Engineer & Administrative Officer,
Coimbatore Housing Unit,
Tamil Nadu Housing Board,
Tatabad, Coimbatore - 12.
...Review Applicants/Appellants/2&3 Respondents

Vs.

1. Poovatha
...1st Respondent/1st Respondent/Petitioner
2. The Government of Tamil Nadu,
rep by its Secretary to Government,
Housing and Urban Development Department,
Fort St. George, Chennai - 600 009.
...2nd Respondent/2nd Respondent/1st Respondent
3. The Special Tahsildar (LA),
Housing Schemes Unit - 1,
Tatabad, Coimbatore - 12.
...3rd Respondent/3rd Respondent/4th Respondent
4. N. Purushothaman
... Respondents

(R4 - impleaded vide Court order dated 27.01.2022 made in
C.M.P.No.177 of 2022 in Review Application No.194/2017 in
WA No. 174/2015)

Review Application is filed under Order XLVII, Rule 1
read with Section 114 of Civil Procedure Code against the
order dated 26.02.2016 made in W.A.No.174 of 2015.

Prayer in W.A.No.174 of 2015: To allow the Writ Appeal by setting aside the order made in W.P.No.14661 of 2014, dated 23.06.2014

Prayer in W.P.No.14661 of 2014: Writ Petition filed under Article 226 of the Constitution of India for a Writ of declaration, to declare that the entire land acquisition proceedings initiated, under the Land Acquisition Act, 1894, with respect to the lands of an extent of 0.63.5 hectares, comprised in S.F.No.532/1, situated at Vellakinaru Village, Coimbatore, belonging to the petitioner as lapsed in view of the "Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013" (Act 30/2013)

For Review Applicants: Dr.R.Gowri

For Respondents : Mr.AR.L.Sundaresan, Senior Counsel,
for Mr.G.Sankaran (R1)

Ms.D.Tamil Selvi,
Additional Government Pleader
(Land Acquisition) (R2 & R3)

Mr.P.Wilson, Senior Counsel
for Mr.G.Sankaran (R4)

O R D E R

(Order of the Court made by M.Duraiswamy, J.)

The appellants in the Writ Appeal in W.A.No.174 of 2015 have filed the above Review Application to review the order dated 26.02.2016 passed in the said Writ Appeal.

2.The Review Applicants, among other grounds raised in the application, also contended that the Division Bench, while dismissing the Writ Appeal, ought to have considered the possession certificate executed by the land acquisition authorities and beneficiaries.

3.With regard to the possession certificate, the Division Bench, while dismissing the Writ Appeal, took into consideration the contention of the appellants and has given elaborate finding. The Division Bench observed that the certificates subsequently prepared by the revenue authorities for delivering possession of the lands in question to the Housing Board and in the absence of witness or land owners, will not be sufficient to establish that the possession of the lands was taken over from the land owners. The Division Bench

also held that the possession of the lands in question were not taken over after the passing of the Award. The Division Bench also considered the provisions of Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

4. On a perusal of the grounds raised in the Review Application, it could be seen that the applicants have not raised any ground pointing out an error apparent on the face of the record. As per the provisions of Order 47 Rule 1 of the Code of Civil Procedure, a Review Application can be entertained only if there is an error apparent on the face of the record. The Review Application cannot be treated as an appeal in disguise. It is also settled position that the review applicants cannot re-argue the appeal. In the case of the review applicants unable to point out any error apparent on the face of the record as per the provisions of Order 47 Rule 1 of the Code of Civil Procedure, the remedy open to the applicants is only to challenge the order passed in the Writ Appeal by way of an appeal before the Hon'ble Supreme Court. None of the grounds raised in the Review Application points out any error apparent on the face of the record warranting interference.

5. In these circumstances, the Review Application is liable to be dismissed. Accordingly, the Review Application is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

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To

1. The Chairman & Managing Director,
The Tamil Nadu Housing Board,
No.331, Anna Salai, Nandanam,
Chennai - 600 035.
2. The Executive Engineer & Administrative Officer,
Coimbatore Housing Unit,
Tamil Nadu Housing Board,
Tatabad, Coimbatore - 12.
3. The Secretary to Government,
Government of Tamil Nadu,
Housing and Urban Development Department,
Fort St.George, Chennai - 600 009.

4. The Special Tahsildar (LA),
Housing Schemes Unit - 1,
Tatabad, Coimbatore - 12.

+1cc to Mr.G.Sankaran, Advocate SR. No.6661

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SSD (CO)
PR (08/02/2022)