

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 27.07.2018

CORAM:

THE HONOURABLE Mr.JUSTICE M.VENUGOPAL

AND

THE HONOURABLE Mr.JUSTICE S.VAIDYANATHAN

Review Application No.102 of 2018

in W.P. 18471 of 2017.

1. S.Isaikimuthu
2. R.Shanmuga Anandhi
3. M.Sumathi
4. E.Shaji
5. R.Lakshmi
6. J.R.D.Aruldoss
7. M.Chandrasekar
8. Rajeswari
9. M.Vincent
10. Saravanaperumal (died)
11. R.Maharaja
12. V.Gabriel
13. M.Ashok
14. C.Radha
15. Byula
16. S.Sunil
17. M.Anand
18. K.Sarojini
19. P.Brill Bobby
20. K.V.Raju
21. Balasubramanian
22. Muhaideen Fathima
23. K.Yuvaraj
24. Pechithangam

... Review Petitioners

Vs.

1. The State of Tamilnadu,
Represented by its Secretary to the Government,
Revenue Department,
Fort St. George, Chennai - 600 009
2. The Chairman,
Tamil Nadu Slum Clearance Board,
Kamarajar Salai, Chennai
3. The District Collector,
Kancheepuram District, Kancheepuram
4. The Assistant Engineer,
Tamilnadu Slum Clearance Board,
Division VI, Sub Division III,
Chennai - 600 004
5. The Tahsildar,
Tambaram Taluk,
Kancheepuram District
6. The Revenue Divisional Officer,
Office of the Revenue Division,
Tambaram, Chennai ... Respondents

Review Petition filed under Order 47 Rule I of CPC praying to Review the Order dated 20.02.2018 made in W.P.No.18471 of 2017.

W.P. 18471/2017:

Writ Petition filed under Article 226 of the constitution of india praying for the issuance of a Writ of Mandamus directing the respondents 1 2 and 4 to pay compensation for illegal eviction and demolition of buildings made by the 4th respondent herein in consequence of notice issued by the 4th respondent in No.Nil dated 24.5.2017 causing eviction and demolition by the Tamil Nadu Slum Clearance Board in Survey No.403/3 Perungalathur Village Tambaram Taluk Chennai in so far as it relates to houses of the petitioners in Annai Anjugam Nagar Extension Old Perungalathur Chennai-600 063 in accordance with the Letter No.D76 Housing and Urban Development Department dated 17.4.2017 by the 1st respondent herein and direct the 5th respondent to grant three cents of land to the petitioners.

For Petitioners : Mr.S.Arunkumar

For Respondents : Mr.S.Udayakumar for R1, R3, R5 and R6

Mr.S.Prabhu for R2 and R4

O R D E R

(Order of the Court was made by S.VAIDYANATHAN,J.)

Challenging the Common Order dated 20.02.2018 made in W.P.No.18471 of 2017, the petitioners in the Writ Petition has filed this Review Petition seeking to Review the same.

2. According to the petitioners, this Court while passing the common order dated 20.02.2018 had failed to take into account that the 3rd respondent / Slum Clearance Board had kept quiet for five long years from 2010 to 2015 and had removed the houses of the petitioners from the affected area only on 26.05.2015. Further, the authorities of the 3rd respondent were resisted by the petitioners and other persons. Further, the local ward councilor, viz., Pugalendi also explained the said authorities that the affected area and the affected people have been provided basic amenities such as electricity connection, drinking water supply from Perungalathur Town Panchayat from 2012 and street lights.

3. The learned counsel for the petitioners submitted that inspite of several representations of the petitioners and others to the respondents, the authorities concerned, viz., respondents 1 to 3 did not inform the petitioners / affected people about the handing over of the said land to the 3rd respondent.

4. The learned counsel for the petitioners also submitted that while passing the order dated 20.02.2018, this Court had failed to note that the petitioners have been issued with family ration card by Civil Supplies Department and have issued their Voter Identity card and some of the petitioners have paid property taxes.

5. Moreover, the learned counsel for the petitioners submitted that this Court failed to note that the lands in Survey No.403/3 to the extent of 75 cents are unsuitable for construction of multi storied building.

6. Besides the above, the learned counsel for the petitioners submitted that this Court failed to note that the electricity board meters, electrical wires, lamp posts etc., were stolen away by the Slum Clearance Board Authorities on 26.05.2017 while eviction and demolition. Further, the petitioners reserve their right to claim their three cents of

house sites.

7. Heard the learned counsel on either side and perused the documents placed on record.

8. It is not in dispute that the petitioners are encroachers and only seven persons are found to be entitled to the relief and the names of the said persons were included in W.P.No.18471 of 2017. Further, the only case of the petitioners is that all the writ petitioners are entitled to the relief as sanctioned to the seven petitioners. However, this Court having gone through the documents produced before this Court came to the conclusion that some writ petitioners, numbering seven, are only entitled to. Therefore, Review is not possible.

9. A perusal of the order under review clearly shows that all the points raised were considered and dealt with extensively by this Court, both by law and on facts.

10. To maintain a review application, the review petitioners 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.

11. The basic principle to entertain a 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 order / judgment; once a Order / 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 petitioners without altering or substituting its view in the order / 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 and review on the ground that the judgment is erroneous cannot be sustained.

12. 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 under 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.

13. In "Shanmuga Sundara Nadar vs. 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."

14. In "Meera Bhanja vs. Nirmala Kumari Choudhury" reported in (1995) 1 SCC 170, the Supreme Court, while considering the scope of the power of review of the 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."

15. 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.

s/d-
Assistant Registrar(CS VII)

True Copy

Sub-Assistant Registrar

ssd
To

1. The Secretary to the Government,
Revenue Department,
Fort St. George, Chennai - 600 009
2. The District Collector,
Kancheepuram District,
Kancheepuram
3. The Tahsildar,
Tambaram Taluk,
Kancheepuram District
4. The Revenue Divisional Officer,
Office of the Revenue Division,
Tambaram, Chennai

+1 CC to Mr.S. Arunkumar, Advocate sr 52006.

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SP(16/08/2018)