

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.01.2018

CORAM

THE HONOURABLE MR.JUSTICE K. RAVICHANDRABAABU

Review Application No.705 of 2017

in

WP.No.94 of 2016

and

WMP.No.36756 of 2017

in

Review Application No.705 of 2017

Dr.Illangovan

Sri Guru Ragavendra Hospital

Ponnambalam Salai, K.K.Nagar,

Chennai.

... Review Applicant /
11th respondent

versus

1.Mrs.R.Fathima

C/o.Traffic Dr.K.R.Ramaswamy

Student of Traffic Ramaswamy & Social Activist

No.123, 3rd Floor, Prakasam Salai,

Chennai-600 108.

सत्यमेव जयते...

... Respondent /
Writ Petitioner

2.The Chief Secretary

Govt. of India

New Delhi.

... Respondent /
1st respondent

3.The Home Secretary

Govt. of India

New Delhi.

... Respondent /
2nd respondent

4.The Secretary

Health and Family Welfare Department

Govt. of India, New Delhi.

... Respondent /
3rd respondent

5.The Secretary

- Medical Council of India
Pocket - 14, Sector-8
Dwarka Phase-I,
New Delhi. ... Respondent /
4th respondent
- 6.The Chief Secretary
Govt. of Tamil Nadu
Chennai-600 009. ... Respondent /
5th respondent
- 7.The Home Secretary
Govt. of Tamil Nadu
Chennai-600 009. ... Respondent /
6th respondent
- 8.The Secretary
Health and Family Welfare Department
Govt. of Tamil Nadu
Chennai-600 009. ... Respondent /
7th respondent
- 9.Tamil Nadu Medical Council
Rep. by its President
No.914, Poonamallee High Road
Arumbakkam, Chennai-600 106. ... Respondent /
8th respondent
- 10.The Commissioner of Police
Greater Chennai City
Vepery, Chennai-600 007. ... Respondent /
9th respondent
- 11.The Inspector of Police (L & O)
R7, K.K.Nagar Police Station
K.K.Nagar, Chennai-78. ... Respondent /
10th respondent

Review Application filed under Order 47 Rule 1 r/2 Section 114 of
CPC, to review the order dated 27.11.2017 in WP.No.94 of 2016.

For Review Applicant : Mr.K.Sathishkumar

ORDER

The Review Applicant is the 11th respondent in WP.No.94 of 2016.

<http://www.judis.nic.in> The first respondent herein as the writ petitioner therein, filed the same

for mandamus directing the respondents therein to take appropriate criminal action against the Review applicant herein (11th respondent therein) and also to direct the 8th respondent therein namely the Tamil Nadu Medical Council to cancel the registration of the Review Applicant, by considering her representation dated 21.11.2015.

2. This Court, after hearing the writ petitioner as party-in-person, Mr.G.Shankar, learned counsel for the 8th respondent therein, Mr.R.Govindasamy, learned Special Government Pleader for the respondents 9 & 10 therein and Mr.P.Vijendran, learned counsel for the 11th respondent therein (review application herein), passed an order on 24.11.2017, directing the Tamil Nadu Medical Council to consider and decide the complaint made by the writ petitioner on merits, after conducting proper enquiry and also by giving due opportunity of hearing to the writ petitioner as well as the 11th respondent therein (review applicant herein). It was also specifically expressed therein that this Court was not inclined to go into the rival contentions of the parties on the merits of the complaint made by the writ petition, as it is for the 8th respondent therein viz., Tamil Nadu Medical Council to consider and decide the same on merits. This Court, further observed therein that both the parties should be given an opportunity of hearing and it is open

to them to place relevant materials before the Tamil Nadu Medical Council at the time of enquiry, so as to enable the said Council, to arrive at a just and proper conclusion, in accordance with law.

3. Now, this review application is filed seeking to review the order made in WP.No.94 of 2016 dated 27.11.2017, by contending that the present review applicant has already filed a Civil Suit in O.S.No.5737 of 2016 on the file of the VIII Assistant Judge, City Civil Court, Chennai, against the writ petitioner for recovery of a sum of Rs.4,20,500/- together with 12% interest towards the treatment charges, which the writ petitioner failed to pay and that the said suit was decreed exparte on 17.11.2017. It is also contended that the writ petitioner was served with notice in the said suit and she has also filed vakalat through her counsel on 19.01.2017. Therefore, it is contended that the writ petitioner being aware of all those facts should have brought the same to the notice of this Court at the time when the writ petition was taken up for hearing in order to arrive at a just and proper conclusion. Thus, it is contended that the writ petitioner has deliberately suppressed those vital factors before this Court and consequently, she is not entitled for the relief granted. It is further contended that the counsel, who appeared for the 11th respondent therein has not brought to the notice

of this Court about those vital facts and therefore, the review applicant is forced to change his counsel and file this review application through the present counsel. Thus, it is contended that the writ petition was filed as a counter blast to the suit filed by the review applicant for recovery of the said sum which also came to be decreed exparte on 17.11.2017.

4. Mr.K.Satishkumar, learned counsel for the review applicant further submitted that the very complaint of the writ petitioner is a false and frivolous one filed only to harass the review applicant, who is a well known & reputed medical professional. He further submitted that directing the Tamil Nadu Medical Counsel to conduct an enquiry against the review petitioner would result in causing great damage to his reputation as medical professional in his field, that too, based on a false and frivolous complaint filed by the writ petitioner made as a counter blast to the suit filed by the review applicant. Therefore, he submitted that this Court has to review the order passed in the writ petition by considering all the above aspects.

5. Heard the learned counsel for the petitioner.

6. The present proceedings is initiated under Order 47 Rule 1 r/w Section 114 of CPC seeking to review the order passed by this Court on 27.11.2017 in WP.No.94 of 2016. Therefore, it is to be noted that the scope and ambit of the review jurisdiction of this Court is very limited and has to be exercised only when it is brought to the notice of this Court that there is an error apparent on the face of the records. The facts as discussed above, would only disclose that the grounds raised in this review application does not disclose any error apparent on the face of the record or that those facts had come to the knowledge of the review applicant only later. On the other hand, it is an admitted position that the above said facts and circumstances are already known to the review applicant and to his counsel, who appeared before this Court in the writ petition. If those facts and circumstances were not brought to the knowledge of this Court at that point of time, it is their fault and therefore, on that ground, the review applicant cannot seek to review the order already passed by this Court, as above stated facts and circumstances does not raise the cause of action to file the review.

7. Insofar as the apprehension raised by the petitioner with regard to the direction issued to the Tamil Nadu Medical Council to conduct the enquiry is concerned, it is to be stated that such apprehension is totally

misconceived and unwarranted. Needless to say that the enquiry referred to in the order passed in the writ petition would only mean an enquiry to arrive at a *prima facie* satisfaction of the genuineness of the complaint made by the writ petitioner and not to mean as if an enquiry after framing of a charge against the delinquent. There is a difference between a preliminary enquiry and a full fledged enquiry after framing the charge. When this Court has already expressed that it is not going into the rival contention of the parties on the merits of the complaint, it is for the Tamil Nadu Medical Council to go into the same and find out as to whether any *prima facie* case is made out by the complainant to proceed against the review applicant further. Therefore, on that score also that the apprehension of the review applicant is not well founded.

8. Further, filing the review application, by changing the counsel, is also not permissible and the said view is taken already by the Division Bench of this Court in Review Application No.167/2014 dated 11.12.2014, (wherein I am one of the party to that Bench), by following the order passed by the Hon'ble Supreme Court reported in 1997 (9) SCC 736, (Tamil Nadu Electricity Board Vs. N.Raju Reddiar). Therefore, on this ground also, I am not inclined to entertain the review application. Accordingly, the review application fails and thus, the same is dismissed.

No costs. Consequently, connected miscellaneous petition is closed.

08.01.2018

Speaking/Non-speaking order

Index:Yes/No

Internet : Yes / No

mk

To

1. Mrs.R.Fathima
C/o.Traffic Dr.K.R.Ramaswamy
Student of Traffic Ramaswamy & Social Activist
No.123, 3rd Floor, Prakasam Salai,
Chennai-600 108.

2. The Chief Secretary
Govt. of India
New Delhi.

3. The Home Secretary
Govt. of India
New Delhi.

4. The Secretary
Health and Family Welfare Department
Govt. of India, New Delhi.

5. The Secretary
Medical Council of India
Pocket - 14, Sector-8
Dwarka Phase-I,
New Delhi.



6. The Chief Secretary
Govt. of Tamil Nadu
Chennai-600 009.

7. The Home Secretary
Govt. of Tamil Nadu
Chennai-600 009.

8. The Secretary
Health and Family Welfare Department
Govt. of Tamil Nadu
Chennai-600 009.



WEB COPY

K.RAVICHANDRABAABU,J.

mk

9.Tamil Nadu Medical Council
Rep. by its President
No.914, Poonamallee High Road
Arumbakkam, Chennai-600 106.

10.The Commissioner of Police
Greater Chennai City
Vepery, Chennai-600 007.

11.The Inspector of Police (L & O)
R7, K.K.Nagar Police Station
K.K.Nagar, Chennai-78.

Review Application No.705 of 2017



सत्यमेव जयते

WEB COPY

08.01.2018