

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 06.02.2018

CORAM:

THE HONOURABLE Mr.JUSTICE M.VENUGOPAL

AND

THE HONOURABLE Mr.JUSTICE S.VAIDYANATHAN

Review Application No.12 of 2018

K.Ravichandran alias Ravishankar ... Review Petitioner

vs.

1. Ravammal

2. The District Collector,
Thiruvallur District,
Office of the Collector, Thiruvallur,

3. The Assistant Director (Panchayat)
District Collector office,
Thiruvallur District

4. The Block Development Officer (Panchayat)
Poondi Panchayat union, Poondi Post,
Thiruvallur District

5. The Executive Officer and President,
Nandhimangalam Village,
Pondavakkam Post,
Uthukottai Taluk,
Thiruvallur District

... Respondents

Review Petition filed under Section 114 r/w Order 47 Rule I of
CPC praying to Review the Order dated 03.01.2018 made in

W.P.No.25197 of 2017.

For Petitioner : Mr.A.Palaniappan

For Respondents : Mr.A.N.Thambidurai for R2 to R5
Special Government Pleader

ORDER

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

Challenging the order dated 03.01.2018 made in W.P.No.25197 of 2017, the 5th Respondent in the Writ Petition has filed this Review Petition seeking to Review the same.

2. The 1st respondent / Writ Petitioner originally filed W.P.No.25197 of 2017 seeking a direction to the respondents 1 to 3 therein to implement the order dated 29.10.2015 in Na.Ka.No.4/2012-2013 passed by the fourth respondent therein in demolishing the superstructure situated at Grama natham house site comprised in Survey No.109/19, Old Survey No.69/3, measuring an extent of 109 square meters at Nandhimangalam Village, Pondavakkam Post, Uthukotta Taluk, Thiruvallur District, belonging to the fifth respondent therein.

3. After hearing the learned counsel on either side, this Court disposed of the said Writ Petition on 03.01.2018, by holding as under:

"4. More than two years have gone-by from the date of the said order, dated 29.10.2015 passed by the fourth respondent. Admittedly, no appeal has been preferred by the petitioner, even though this Court as stated supra, has granted permission to the petitioner to approach the

appellate authority by order dated 21.07.2016 passed in W.P.No.25356 of 2016. Even after that order, almost more than 1-1/2 years have gone-by. Since there is no interim order operating against the said order of the fourth respondent, dated 29.10.2015, there is no legal impediment on the part of the authority concerned in removing the encroachment in question, as per the said order dated 29.10.2015 passed by the fourth respondent. Such exercise shall be carried out by the authority concerned within a period of one month from the date of receipt of a copy of this order.

5. If the officials who is/are responsible, fails to initiate action for demolition of the violated portions, disciplinary action needs to be initiated and major punishment should be imposed. If the person who is responsible to initiate disciplinary action, fails to do so, he/she shall be divested of the post, i.e. the person can be even dismissed from service. The details of the person(s) mentioned in this paragraph of this order, need to be furnished to the Registrar General of this Court within 15 days from the date of receipt of a copy of this order.

6. With the above observations and direction, the Writ Petition is disposed of. No costs. Consequently, W.M.P. is closed."

4. According to the review petitioner, the order passed on 29.10.2015 by the 5th respondent is illegal and this Court, earlier, has granted liberty to prefer an Appeal in W.P.No.40774 of 2015 on 6.01.2016. Subsequently, the 1st respondent had preferred the said writ petition to enforce the impugned order, which is untenable and unsustainable in Law.

5. Moreover, it is brought to the notice of this Court that the Petitioner has preferred an appeal and also sought for regularisation, subsequent to the order of the Writ Petition.

6. 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.

7. To maintain a review application, the review petitioner 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.

8. 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 judgment; once a 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 petitioner without altering or substituting its view in the 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.

9. 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.

10. 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."

11. 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."

12. 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.

(M.V.J.)

(S.V.N.J.)

07.02.2018

Index : Yes / No
Internet : Yes / No
Speaking / Non speaking order
ssd
To

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M.VENUGOPAL, J.
and
S.VAIDYANATHAN, J.

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