

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 23.03.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.VENUGOPAL
and
THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

Review Application (Writ) No.43 of 2018
in
Writ Petition No.23008 of 2016

P.Ravichandran

.. Petitioner

Vs.

1. The State of Tamil Nadu
Rep. by its Secretary,
Housing and Urban Development Department,
Fort St.George,
Chennai-600 009.
2. The Corporation of Chennai,
Rep. by its Commissioner,
Rippon Buildings,
Chennai-600 003.
3. The Executive Engineer,
Office of the Central Region,
Corporation of Chennai,
Pulla Avenue, Shenoy Nagar,
Chennai-600 030.
4. The Zonal Officer, Zone-VIII,
Corporation of Chennai,
Pulla Avenue, Shenoy Nagar,
Chennai-600 030.

.. Respondents

Review Application filed under Order 47 Rule 1 read with Section 114 of
the Code of Civil Procedure Section to review the order dated 17.01.2018 passed

in W.P.No.23008 of 2016 on the file of this Court.

For Petitioners : Mr.S.Thankasivan

For respondents : Mr.A.N.Thambidurai, Spl.G.P. for R-1
Mr.R.Arun Mozhi for RR-2 to 4

ORDER

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

The petitioner has filed the above Review Application seeking to review the order dated 17.01.2018 passed by this Court in Writ Petition No.23008 of 2016.

2. Heard both sides and perused the materials available on record.

3. This Court has already dealt with the matter in detail in W.P.No.23008 of 2016 and taking note of the observations made by this Court in W.P.No.23008 of 2016 in paragraphs 5 and 7 therein, to the effect that as per the Revenue Records, the land in question belongs to the Government, which is classified as Government Poramboke that the Patta itself is a forged one, this Court found that there is no error apparent on the face of the record to interfere with the impugned order in the Writ Petition and hence, the present Review Application is not maintainable.

4. Further, with regard to the maintainability of a review application, it is worthwhile to notice a decision of the Supreme Court reported in 2013 (8) SCC 320 (Kamlesh Verma Vs. Mayawati), wherein the Apex Court considered the

scope of the review jurisdiction and summarised the factors as to when the review will be maintainable and when the review will not be maintainable and the same reads as follows:

"Summary of the principles

20. Thus, in view of the above, the following grounds of review are maintainable as stipulated by the Statute:

20.1. When the review will be maintainable:

- (i) Discovery of new and important matter or evidence which, after the exercise of due diligence, was not within knowledge of the petitioner or could not be produced by him;
- (ii) Mistake or error apparent on the face of the record;
- (iii) Any other sufficient reason.

The words "any other sufficient reason" have been interpreted in *Chhajju Ram Vs. Neki* ((1921-22) 49 IA 144 : (1922) 16 LW 37 : AIR 1922 PC 112) and approved by this Court in *Moran Mar Basselios Catholicos Vs. Most Rev. Mar Poulouse Athanasius* (AIR 1954 SC 526 : (1955) 1 SCR 520) to mean "a reason sufficient on grounds at least analogous to those specified in the rule". The same principles have been reiterated in *Union of India Vs. Sandur Manganese & Iron Ores Ltd.* ((2013) 8 SCC 337 : JT (2013) 8 SC 275).

20.2. When the review will not be maintainable:

- (i) A repetition of old and overruled argument is not enough to reopen concluded adjudications.
- (ii) Minor mistakes of inconsequential import.
- (iii) Review proceedings cannot be equated with the original hearing of the case.
- (iv) Review is not maintainable unless the material error, manifest on the face of the order, undermines its soundness or results in miscarriage of justice.
- (v) A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected but lies only for patent error.
- (vi) The mere possibility of two views on the subject cannot be a ground for review.

(vii) The error apparent on the face of the record should not be an error which has to be fished out and searched.

(viii) The appreciation of evidence on record is fully within the domain of the appellate court, it cannot be permitted to be advanced in the review petition.

(ix) Review is not maintainable when the same relief sought at the time of arguing the main matter had been negated."

5. Further, in the case on hand, there is no error apparent on the face of record to review the order passed in the Writ Petition. The basic principle to entertain a Review Application 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's 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.

6. Further, in the case of 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."

7. Moreover, a Review Application cannot be entertained merely, as the Supreme Court in the decision reported in 1997 (9) SCC 736 (Tamil Nadu Electricity Board Vs. N.Raju Reddiar), has observed as follows:

"1. ... When an appeal/special leave petition is dismissed, except in rare cases where error of law or fact is apparent on the record, no review can be filed; that too by the Advocate-on-Record who neither appeared nor was party in the main case. It is salutary to note that the court spends valuable time in deciding a case. Review petition is not, and should not be, an attempt for hearing the matter again on merits. Unfortunately, it has become, in recent time, a practice to file such review petitions as a routine; that too, with change of

counsel, without obtaining consent of the Advocate-on-Record at earlier stage. This is not conducive to healthy practice of the Bar which has the responsibility to maintain the salutary practice of profession. ... "

8. Further, in another decision of the Supreme Court reported in 2014 (5) SCC 75 (Subramanian Swamy Vs. State of T.N), it has been observed in paragraph 52 as follows:

"52. ... Thus, 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, 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. (Vide - Rajender Kumar Vs. Rambhai - 2007 (15) SCC 513 : 2010 (3) SCC (Cri) 584 : AIR 2003 SC 2095)."

9. Furthermore, in respect of filing a review petition, it has to be observed that an error on the face of record must be such an error, which must strike one or mere looking at the record and would not require any long drawn process of reasoning. The power of Review is not to be confused with an Appeal in disguise, which enables an Appellate Court to correct an erroneous decision by the process of "Rehearsing and Corrected". Review and Appeal cannot go together and Re-arguments in a case are not permissible in Review.

10. In view of all the above settled principles of law, extracted above in

the decisions, the Review Application is dismissed. However, there shall be no order as to costs.

(M.V.J)

(S.V.N.J)

23.03.2018

Index: Yes

Internet: Yes

Speaking Order: Yes

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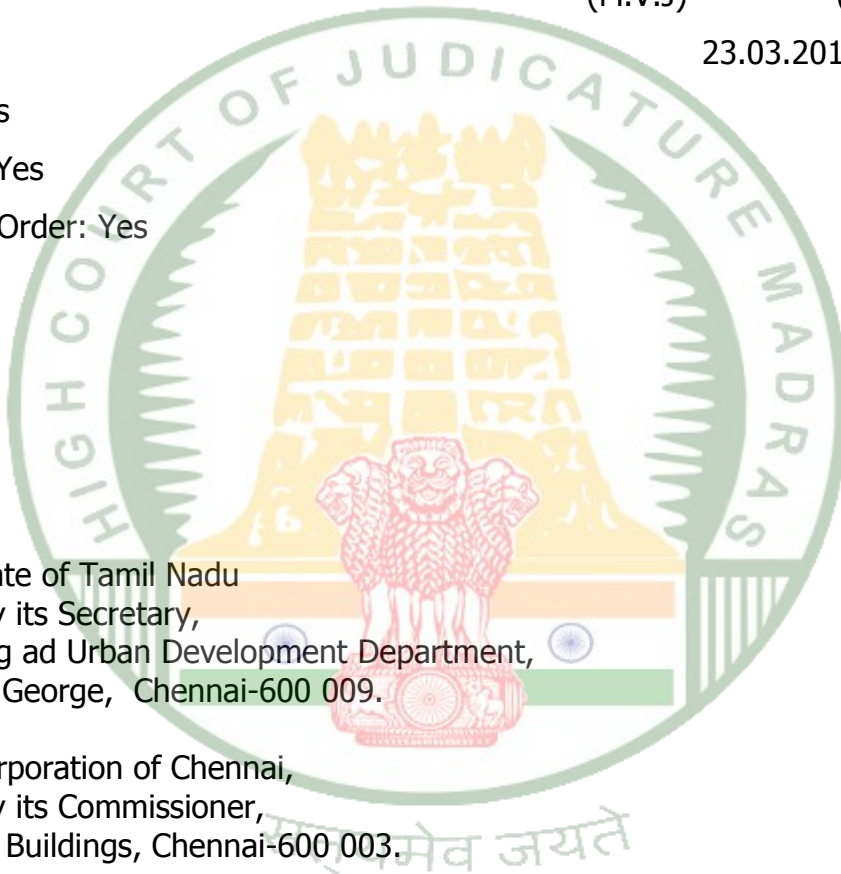
To

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