In the High Court of Judicature at Madras

Dated: 25.04.2018

Coram:

The Hon'ble Mr.Justice **M.VENUGOPAL**
and
The Hon'ble Mr.Justice **S.VAIDYANATHAN**

Review Application No.70 of 2018 and
WMP No.12557 of 2018

Pennurimai Iyakkam
(Registered Society under the
Societies Registration Act),
rep. By its General Secretary
Leelavathi, No.39, Dr.Azhagappa
Road, Purasaivakkam,
Chennai – 600 084 ...Applicant

Vs

1.The Government of Tamilnadu
Rep. By Secretary,
Department of Housing and Urban Development
Fort St. George,
Chennai – 600 009

2. Chennai City Muncipal Corporation,
Rep. By the Commissioner,
Ripon Building,
Chennai – 600 003

3. Commissioner of Police,
Police Commissioners Office,
No.132, Commissioner Office Building,
EVK Sampath Road,
Vepery, Periyamet,
Chennai – 600 007

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4. Tamil Nadu Clearance Board,
rep. By its Secretary,
No.5, Kamarajar Salai,
Triplicane, Chennai – 600 005 ..Respondents

Prayer: Review Application filed under Order XLVII Rule I of Civil Procedure Code r/w Section 114 of Civil Procedure Code to review the Order passed in W.P.No.31721 of 2017 dated 15.03.2018.

For Applicant :Mr.V.Prakash
Senior Counsel for Mr.P.Ganeshram

For Respondents :Mr.A.N.Thambidurai for R1 to R3
Special Government Pleader
Mr.A.Nagarajan for R2
Ms.D.Latha for R4

O R D E R

[Order of the Court was made by M.VENUGOPAL,J.,]

The Applicant / Iyakkam [Society] has preferred the instant Review Application [as a dis-satisfied person] as against the Order dated 15.03.2018 in W.P.No.31721 of 2017 passed by this Court.

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2. Earlier, this Court while passing orders in W.P.No.31721 of 2017 filed by the Review Applicant [As Writ Petitioner] at Paragraph Nos.2 and 3 had observed the following and closed the Writ Petition.

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"2. It is represented by Mr.V.C.Selvasekaran, learned counsel appearing for the second respondent / Chennai City Municipal Corporation that already 140 families were identified and rehabilitated, vide order passed in W.P.No.29811 of 2014. It is also brought to the notice of this Court that the total length of the Konnur High Road is 910 meters and already the encroachment was removed to an extent of 350 meters and only the balance portion of the encroachment to be removed in Konnur High Road is 560 meters. Further that, the balance 315 families are required to be rehabilitated at Perumbakkam, which is the preferred location / alternative place as requested by the members of the petitioner-Iyakkam.

3. Hence, the fourth respondent / TNSCB is directed to take necessary steps to rehabilitate the remaining 315 families at Perumbakkam. The encroachers, viz., 315 families are directed to move out from the present place on or before 10-06-2018, failing which it is open for the fourth respondent / TNSCB and the second respondent / Chennai City Municipal Corporation / TNSCB and the second respondent / Chennai City Municipal Corporation to allot an alternative place to some other eligible persons based on the 'seniority' in the 'list' maintained by them, of course by way of identification."

4. The Learned Senior Counsel for the Applicant submits that the

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Applicant / Iyakkam had not made any request for the residents to be relocated to Perumbakkam, as always its case is that the subject families can be accommodated in the land, which is declared Slum and in Public Interest Litigation. It was placed on record by the Applicant / Writ Petitioner about the extent of land acquired by the Government under the Tamil Nadu Urban Ceiling Act, which aspect was not considered in the Order passed by this Court in W.P.No.31721 of 2017 dated 15.03.2018.

5. The Learned Senior Counsel for the Applicant contends that in the Public Interest Litigation, the Applicant had pointed out that this mass eviction and relocation in distant locations would create a ghetto culture and the children would be unable to pursue education and become dropouts etc., Further, in the Public Interest Litigation, even the Chennai River Restoration Trust has only suggested in-situ rehabilitation in most cases and the committee's views were not taken into consideration by Tamil Nadu Slum Clearance Board which is travesty of justice.

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6. It is represented on behalf of the Applicant that the funds are received by the Government of Tamilnadu and the Slum Clearance Board under the Jawaharlal Nehru National Urban Renewal Mission Scheme and hence they are bound to abide by the terms of the funding.

7. Lastly, it is submitted on behalf of the Applicant that the land being declared 'Slum' and that the subject families can be accommodated in the declared slum itself, there is no reason why they should suffer displacement and hence there is need to reconsider the matter.

8. Be it noted that the 'Review' is not an 'Appeal in disguise. Furthermore, 'Re-arguments' in a case are not permissible in 'Review'. Undoubtedly, only a 'Manifest / Apparent Error' can be a reason for 'Review'. Under the guise of seeking 'Clarification', the 'Review' of an Order is not to be sought for by a litigant. An Error on the Face of Record must be one which should strike on the mere looking at the record and may not require any long drawn process of reasoning. No wonder, the 'Power of Review' is not to be equated with an 'Appellate

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Power', which may enable the Appellate Court to correct a wrong decision by a process of 'Reheard and Corrected'. Indeed, the well settled legal position is that 'Review' erases the earlier Judgment and it operates from the inception.

9. As far as the present case is concerned, this Court on going through the Order dated 15.03.2018 in W.P.No.31721 of 2017 is of the considered view that the Applicant has not made out a case for 'Review' in as much as the Order dated 15.03.2018 in W.P.No.31721 of 2017 passed by this Court is free from any legal infirmities or mistakes or Errors Apparent on the Face of Record. Looking at from any point of view, the present Review Application fails.

10. In fine, the Review Application stands dismissed. Consequently, connected Miscellaneous Petition is closed.

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Before parting with the present case, this Court makes it lucidly clear that the dismissal of the present Review Application will not preclude the Applicant to raise all factual and legal pleas in

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W.P.No.34128 of 2017 [filed as PIL] pending on the file of this Court and seek appropriate remedy if it so desires / advised.

[M.V.J.] **[S.V.N.J.]**

25.04.2018

Index:Yes/No.

Internet:Yes/No.

Speaking Order / Non speaking order

ssd

To

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