

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:25.06.2018

Coram

THE HONOURABLE Mr. JUSTICE M.VENUGOPAL

AND

THE HONOURABLE Mr. JUSTICE S.VAIDYANATHAN

Review Application No.74 of 2018
in W.P.No.25931 of 2017

- 1.V.Lalitha Thiyagarajan
- 2.Ravindrakumar Vedaraj Manual
- 3.S.P.Arya
- 4.S.Balakrishnan

... Petitioners/Respondents 7 to 10

V.

- 1.Thilakavathy
- 2.B.Rajthilak
- 3.Hema Jayaraman

- 4.The Government of Tamil Nadu,
Rep. by its Secretary,
Housing and Urban Development Department,
Secretariat, Fort St. George,
Chennai – 600 009.

- 5.The Additional Secretary (Technical)
Housing and Urban Development Department,
Secretariat, Fort St. George,
Chennai – 600 009.

- 6.The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajar Maaligai,
Egmore, Chennai – 600 008.

7.The Commissioner,
Greater Chennai Corporation
No.36B, Pullah Avenue,
Shenoy Nagar, Chennai – 30.

8.The Executive Engineer,
Greater Chennai Corporation,
No.36B, Pullah Avenue,
Shenoy Nagar, Chennai – 30.

9.The Zonal Officer,
Zone – VIII, Greater Chennai Corporation,
No.36B, Pullah Avenue,
Shenoy Nagar, Chennai – 30.

... Respondents

Review Application filed under Order 47 Rule 1 r/w under Section 114 of Civil Procedure Code praying to review the order dated 12.02.2018 passed in W.P.No.25931 of 2017.

For Petitioner : Mr.Niranjana Rajagopalan

For Respondents 7 to 9 : Mr.K.Soundararajan

For Respondents 4 & 5 : Mr.A.N.Thambidurai
Special Government Pleader

सत्यमेव जयते

ORDER

[Order of the Court was made by S.VAIDYANATHAN, J.]

Aggrieved by the order dated 12.02.2018 in W.P.No.25931 of 2017, the Respondents 7 to 10 in the Writ Petition have filed this Review Petition seeking to review the same.

2.The only contention of the petitioners is that the Appeal filed

under Section 80A of the Tamil Nadu Town and Country Planning Act, 1971 is pending before the Government and patta needs to be given and that patta is given, the entire issue will be given a quietus too and on that ground, the petitioners have sought for review of the order dated 12.02.2018.

3.The reason given by the petitioners, as mentioned supra, cannot be considered, by any stretch of imagination, for a ground of Review.

4.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.

5.The basic principle to entertain the 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.

6. 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.

7. 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."

8. 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 long drawn 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."

9. 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.

10. Accordingly, this Review Application is dismissed. No costs.

(M.V.J.) (S.V.N.J.)

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Index : Yes / No

Internet : Yes / No

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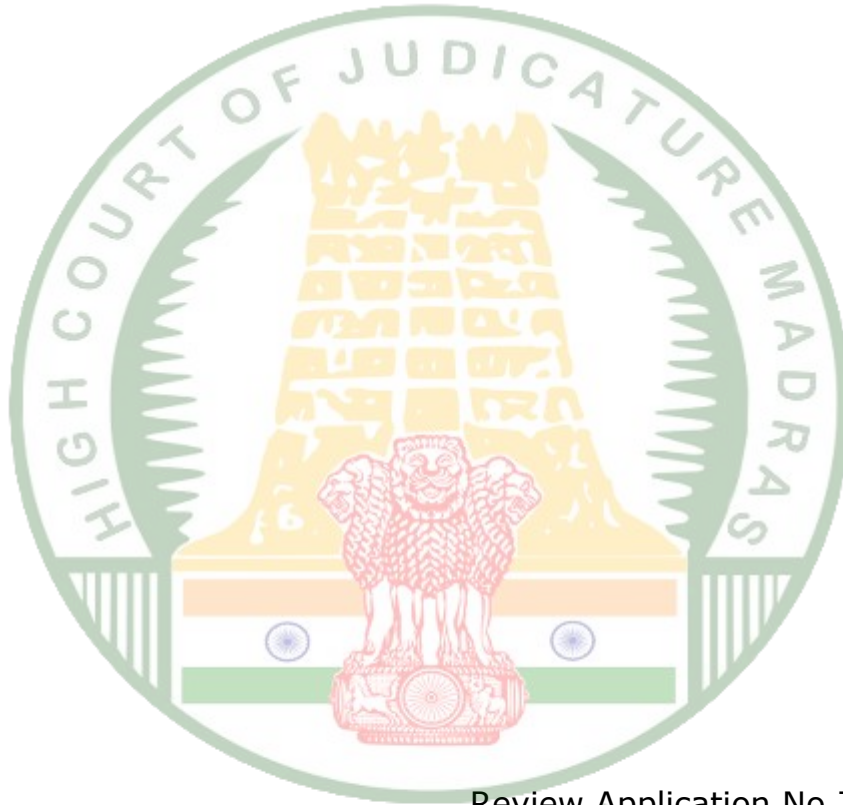
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