



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.11.2018

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**THE HONOURABLE MRS.JUSTICE PUSPHA SATHYANARAYANA
AND
THE HONOURABLE MS.JUSTICE V.M.VELUMANI**

Review Application (MD) No.51 of 2018
and
W.P. (MD) No.3133 of 2009

P.Nehru

.. Petitioner

Vs.

1. The District Collector,
Madurai District,
Madurai.
2. The Special Tahsildar,
Adi-Dravidar Welfare Unit - 1,
Madurai.
3. Tahsildar,
Madurai South,
Madurai.

.. Respondents

Prayer : Review Application is filed under Order 47 Rules 1 and 2 read with 114 of CPC to review the order dated 02.09.2015, in W.P. (MD) No.3133 of 2009.

Prayer in WP(MD) . 3133/ 2009 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Mandamus, directing the respondents to allot housing sites to the Adi Dravidar People in S.No.116/13 at Perungudi Village, Madurai District after issuance of pattas to them.

For Petitioner : Mr.A.Johnvincent
for Mr.A.Jayaramachandran

For Respondents : Mrs.J.Padmaavathi Devi
Special Government Pleader

**ORDER****(Order of the Court was made by V.M.VELUMANI, J.)**

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This Review Application is filed by the petitioner to reconsider the order dated 02.09.2015, passed in W.P.(MD)No.3133 of 2009.

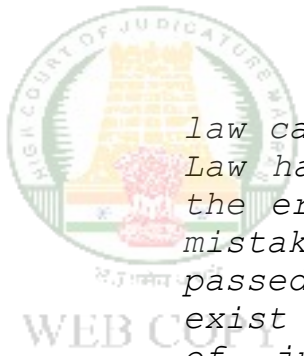
2.The contention of the learned counsel for the petitioner is that the Division Bench of this Court failed to consider the averments in the counter affidavit filed by the first respondent in the Writ Petition that the land in S.No.116/13 is intended to allot for construction of school building sanctioned by the Government due to upgradation of the School into High School. This makes it clear that the land in S.No.116/13 at Perungudi Village, Madurai District, was not allotted to Adi-Dravidar people and the finding that the lands were already acquired and free house sites Patta have been granted to Adi-Dravidar people is not correct. Hence, there is an error in the order passed by this Court.

3.We have heard the learned counsel appearing for the parties and perused the materials available on record.

4.The Division Bench of this Court considering the averments in the counter affidavit filed by the first respondent that S.No.116/13 was sub-divided into S.Nos.116/13A and 116/13B and S.No.116/13B was allotted to the landless Adi-Dravidars and Pattas were granted for the remaining extent of 0.29.5 Hectares as required by the general public in the Village, dismissed the Writ Petition. The petitioner admits that S.No.116/13 was sub-divided and Pattas were issued to Adi-Dravidars in S.No.116/13B. In view of the same, there is no error in the order passed by this Court.

5.It is well settled that the scope of review is very limited. The scope of review was considered by the Hon'ble Apex Court in a judgment reported in **2000 (6) SCC 224 [Lilli Thomas and Others Vs. Union of India and Others]**, wherein, at Paragraph 52, it was held as under:

*"52.The dictionary meaning of the word "review" is "the act of looking, offer something again with a view to correction or improvement". It cannot be denied that the review is the creation of a statute. This Court in **Patel Narshi Thakershi Vs. Pradyumansinghji Arjunsinghji [1971 (3) SCC 844 : AIR 1970 SC 1273]** held that the power of review is not an inherent power. It must be conferred by law either specifically or by necessary implication. The review is also not an appeal in disguise. It cannot be denied that justice is a virtue which transcends all barriers and the rules or procedures or technicalities of*



law cannot stand in the way of administration of justice. Law has to bend before justice. If the Court finds that the error pointed out in the review petition was under a mistake and the earlier judgment would not have been passed but for erroneous assumption which in fact did not exist and its perpetration shall result in a miscarriage of justice nothing would preclude the Court from rectifying the error."

(emphasis supplied)

6.A Division Bench of this Court in a judgment reported in **"2014 (3) TLNJ 245 (Civil) [M.Jai Kavitha Vs. The Authorised Officer, Syndicate Bank, Regional Office, Chennai - 1 and others]"**, has considered the scope of judicial review, wherein the decision of the Honourable Apex Court was noted with approval. Paragraph No.9 of the said Judgment reads as under:

"9.The power of review under Order 47 Rule 1 of CPC can be exercised by a court of law, if the order in question comprises a mistake or an error apparent on the face of record. Once an order is pronounced, it should not be altered, unless there is an apparent error. Law is well settled that erroneous finding is not a ground for review, so also improper consideration for that matter. In review application, the court does not sit in appeal over its own judgment and the said application cannot be treated as an appeal. This position has been ruled by the Supreme Court in Lily Thomas Vs. Union of India [2000 (6) SCC 224]. Therefore, in the absence of any error apparent on th face of record, we are not inclined to interfere with the order in question, except to the extent of deleting of the portions in paragraphs 14 and 15 of the impugned order, with which the applicant is concerned as to having an impact on the proceedings pending before the tribunal, as stated in the foregoing paragraph."

(emphasis supplied)

7.In the light of the dicta laid down by the Honourable Apex Court as well as by the Division Bench of this Court, we are of the considered view that the earlier order of the Court can be reconsidered, only if there is an error apparent on the face of the record and in that event, the said error can be rectified, otherwise, a Review Application is not at all maintainable. In the present case on hand, the Review Applicant failed to raise any ground, reason or cause, warranting interference by this Court.

8.Therefore, we do not find any error apparent on the face of record in the order dated 02.09.2015, passed by this Court in W.P. (MD) No. 3133 of 2009. Accordingly, the Review Application fails.



9. In the result, the Review Application is dismissed. No costs.

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Sd/-
Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar (CS-II)

To

1. The District Collector,
Madurai District, Madurai.
2. The Special Tahsildar,
Adi-Dravidar Welfare Unit - 1,
Madurai.
3. The Tahsildar,
Madurai South, Madurai.

+ 1 CC TO Mr.A.JAYARAMACHANDRAN, ADVOCATE IN SR No. 94470
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 94335

SMN2

TE/SV/SAR-2 : 28/11/2018 : 4P/6C

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W.P.(MD) No.3133 of 2009
01.11.2018