



Rev.Aplc(MD)No.25 of 2018

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.12.2022

CORAM:

**THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
AND
THE HON'BLE MR JUSTICE G.R.SWAMINATHAN**

**Rev.Aplc (MD) No.25 of 2018
and
W.M.P(MD)Nos.12117 & 12118 of 2018**

T.Balu

... Petitioner

Vs.

- 1.The District Collector,
Virudhunagar District,
Virudhunagar.
- 2.The Revenue Divisional officer,
Sattur,
Virudhunagar District.
- 3.The Tahsildar,
Rajapalayam Taluk,
Rajapalayam.
- 4.The Executive Engineer and Administrative Officer,
Tamil Nadu Housing Board,
Ellis Nagar,
Madurai.
- 5.The Tamil Nadu housing Board,
Rep. by its Chairman and Managing Director,
Nandanam,
Chennai-5.



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6.The President,
Melapatta Karisalkulam Panchayat,
M.P.K.Pudhupatti,
Rajapalayam Taluk,
Virudhunagar District.

7.S.Suresh

... Respondents

PRAYER: Review Application filed under Order 47 Rules 1 and 2 r/w Section 114 of C.P.C., to review the order passed by this Court in W.P(MD)No.10709 of 2017 dated 15.12.2017 on the writ petition filed by the 7th respondent.

For Petitioner	: Mr.R.Anand
For R1 to R3	: Mr.D.Sasikumar Additional Government Pleader
For R4 & R5	: Mr.R.Sivakumar
For R7	: Mr.K.Vamanan

ORDER

DR.G.JAYACHANDRAN,J.
AND
G.R.SWAMINATHAN,J.

Heard the learned counsel for the review applicant, learned Standing Counsel appearing for the Housing Board and the learned counsel appearing for the 7th respondent.

2. The 7th respondent in the review application filed W.P(MD)No. 10709 of 2017 for causing removal of the encroachment made by the



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3. The applicant pleaded before this Court that he cannot be considered as encroacher. He based his claim on the sale deed, dated 21.04.2003 executed by the Housing Board. This Court noticed that what was sold to the review applicant by the Housing Board, a portion of 20 feet road handed over to the local body wayback in the year 1982-83.

4. It is well settled that once a road is always road. It cannot be subject matter of any alienation, merely because Housing Board is a vendor that will not be faulted and nullified. In view of that, this Court allowed the writ petition on 15.12.2017 with the following directions:-

“9.Direction is issued to the respondents 3,4, and 6 to remove the encroachment committed by the 6th respondent. Since 6th respondent is a party to this proceedings, he is given a month's time to remove the encroachment on his own. In the event of his failure to do so, the official respondents viz., respondents 3,4 and 6 shall take in the manner known to law.”

5. Aggrieved by the same, the review applicant filed S.L.P (C)No. 5219 of 2018. The Hon'ble Supreme Court granted liberty to the review applicant to file this application. In terms of liberty granted by the Hon'ble Supreme Court, this review application has been filed.



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6. The learned counsel for the review applicant reiterated all the grounds set out in the affidavit.

7. For the reasons set out supra, the road portion can never be alienated. We do not find any error in the order earlier passed by this Court. Hence, the review application stands dismissed. Further, the Housing Board which had effected the unlawful sale, shall return sale amount of Rs.22,628/- (Rupees Twenty Two Thousand Six Hundred and Twenty Eight) with interest at the rate of 24% per annum. This amount shall be refunded within eight weeks from the date of receipt of a copy of this order. Standing counsel appearing for the Housing Board undertakes that earlier direction passed for removal of encroachment will be complied with within a period of eight weeks. No costs. Consequently, connected miscellaneous petitions are closed.

[G.J.J.] [G.R.S.J.]

20.12.2022

Index : Yes / No
Internet : Yes / No
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