

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.06.2019

CORAM:

HONOURABLE MR.JUSTICE S.VAIDYANATHAN

REVIEW APPLICATION (WRIT) No.103 of 2018
and WMP.NO.22231 of 2018

M/s.Oriental Hotels Limited
 rep. by its Company Secretary
 Mr.Tom Antony
 Paramount Plaza
 N.47, Nungambakkam High Road
 Chennai-600 034

... Review petitioner

vs.

1.Tamil Nadu Electricity Board
 rep. by its Chairman
 800, Anna Salai, Chennai-2

2.The Superintending Engineer
 Chennai E.D.Circle/Central
 Chennai-34.

...Respondents

Review Application filed under Order 47 Rule I CPC r/w 114 C.P.C.
 praying to review the order dated 21.08.2017 made in W.P.No.21993 of
 2003.

For Petitioner :

No appearance.

For Respondents :

Mr.P.R.Dhilip Kumar

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ORDER

Today, when the matter is taken up for hearing, there is no
 representation for the Petitioner. The only ground taken by the
 Petitioner in this Review Application is that the petitioner was not aware

of listing of the matter therefore, no proper communication was given to other counsel. This court, by order dated 21.08.2017, had dismissed the Writ Petition, directing the petitioner to pay the difference in the tariff amount to the respondent/Electricity Board together with interest and other penal charges, if any, as per the Rules and Regulations, within a period of 45 days from the date of receipt of a copy of the said order.

2. The order dated 21.08.2017 would show that the petitioner was represented by a counsel and the yet another ground taken in this Review Application is that when the matter was listed, the counsel was not in the Town. The above reason cannot be taken as a ground for reviewing the order, as a Honourable Division Bench of this court, following various judgments of this court and Apex Court, has rendered a decision in the case of ***Shanmuga Sundara Nadar Vs. Tamil Nadu Housing Board, and others*** holding that review cannot be treated as an appeal in disguise, as the object behind reviewing an order is to ensure that there should not be a miscarriage of justice and seeking review on the ground erroneous judgment cannot be sustained. The relevant passages of the said judgment are extracted below:-

"9. 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.

10. 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."

11. 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 longdrawn process of reasoning on points where there may conceivably be two

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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."

3. 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. Hence, this Review Application is dismissed. No costs. Consequently, connected WMP.No.22231 of 2018 is closed.

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Order in

Rev. Application No.103 of 2018