

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.03.2019

CORAM

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Review Application Nos.211 to 213 2018
in S.A.Nos.543, 536 and 544 of 2017

Review Application No.211 of 2018:

The Executive Officer,
A/m.Subramaniaswamy Thirukovil,
Sivan Malai Village,
Kangayam Taluk,
Tirupur District.

..Petitioner

Vs.

- 1.M.Nalli Krishnan
- 2.S.Muthulakshmi
- 3.S.Ganesh babu
- 4.S.Kannan
- 5.S.Murugesan
- 6.S.Rajendran
- 7.K.S.Arumugam
- 8.P.Subramaniam
- 9.B.Khaja Mohideen
- 10.S.Pappathi
- 11.V.Gopalakrishnan
- 12.Priya
- 13.P.Baranikumar
- 14.S.Pappathi
- 15.D.Neeladevi
- 16.R.Padmavathi
- 17.Prasath @ T.Amirdha Sivaprasath
- 18.K.Sivabalaji
- 19.S.Gnanasekaran
- 20.S.Sivakumar
- 21.K.M.Mohammed Sait
- 22.S.Noorjahan Begam

- 23.S.Batch B.Meerabanu
- 24.P.Subramaniam
- 25.S.Kumar
- 26.K.P.Velusamy
- 27.M.Govindaraju @ Govindaraj
- 28.Duraisamy Gounder
- 29.Shanmuga Devi
- 30.S.Gowri
- 31.V.Santhi
- 32.S.Sasikala
- 33.S.E.Sampathkumar
- 34.M.Gopalsamy
- 35.K.M.Ravi
- 36.P.Arumugam
- 37.P.Palanisamy
- 38.K.S.Rajendran
- 39.P.Thangamuthu
- 40.P.Mohanasamy
- 41.P.Sivasami
- 42.Manjula
- 43.D.Balasubramani
- 44.V.Velusamy
- 45.M.Semalaiappan
- 46.K.P.Velusamy
- 47.V.Muthukumar
- 48.R.Nandhakumar
- 49.C.Senthilkumar
- 50.M.Chandrakumar
- 51.K.S.Seenivasan
- 52.D.Sivanmalaiyappan
- 53.D.Senthilkumar
- 54.M.Karthik
- 55.M.Usharani
- 56.V.Gopalakrishnan
- 57.D.Senthilkumar
- 58.M.S.Palanisamy
- 59.N.Balasubramani
- 60.Rishbadevi

61.The District Collector,
Tiruppur District,
Tirupur.

62.Tahsildar,
Kangayam Taluk,
Kangayam.

63.The Sub Registrar,
Sub Registrar's Office,
Kangayam.

64.The Revenue Inspector,
Kangayam.

65.The Village Administrative Officer,
Sivanmalai.

..Respondents

PRAYER: Review Application filed under Order 47 Rule 1 & 2 read with Section 114 of C.P.C, to review the common order dated 28.06.2018 made in S.A.No.543 of 2017, on the file of this Court.

Review Application No.212 of 2018:

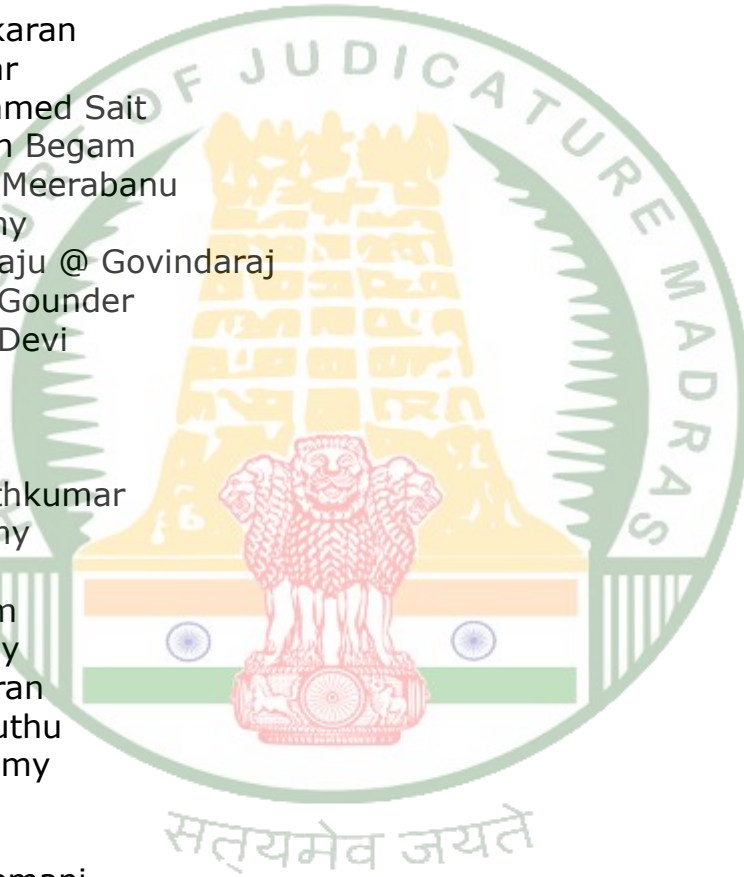
The Executive Officer,
A/m.Subramaniaswamy Thirukovil,
Sivan Malai Village,
Kangayam Taluk,
Tirupur District.

..Petitioner

Vs.

- 1.P.Subramaniam
- 2.S.Kumar
- 3.M.Nalli Krishnan
- 4.S.Muthulakshmi
- 5.S.Ganesh babu
- 6.S.Kannan
- 7.S.Murugesan
- 8.S.Rajendran
- 9.K.S.Arumugam
- 10.P.Subramaniam
- 11.B.Khaja Mohideen

- 12.S.Pappathi
- 13.V.Gopalakrishnan
- 14.Priya
- 15.P.Baranikumar
- 16.S.Pappathi
- 17.D.Neeladevi
- 18.R.Padmavathi
- 19.Prasath @ T.Amirdha Sivaprasath
- 20.K.Sivabalaji
- 21.S.Gnanasekaran
- 22.S.Sivakumar
- 23.K.M.Mohammed Sait
- 24.S.Noorjahan Begam
- 25.S.Batch B.Meerabanu
- 26.K.P.Velusamy
- 27.M.Govindaraju @ Govindaraj
- 28.Duraisamy Gounder
- 29.Shanmuga Devi
- 30.S.Gowri
- 31.V.Santhi
- 32.S.Sasikala
- 33.S.E.Sampathkumar
- 34.M.Gopalsamy
- 35.K.M.Ravi
- 36.P.Arumugam
- 37.P.Palanisamy
- 38.K.S.Rajendran
- 39.P.Thangamuthu
- 40.P.Mohanasamy
- 41.P.Sivasami
- 42.Manjula
- 43.D.Balasubramani
- 44.V.Velusamy
- 45.M.Semalaiappan
- 46.K.P.Velusamy
- 47.V.Muthukumar
- 48.R.Nandhakumar
- 49.C.Senthilkumar
- 50.M.Chandrakumar
- 51.K.S.Seenivasan
- 52.D.Sivanmalaiyappan
- 53.D.Senthilkumar



54.M.Karthik
 55.M.Usharani
 56.V.Gopalakrishnan
 57.D.Senthilkumar
 58.M.S.Palanisamy
 59.N.Balasubramani
 60.Rishbadevi

61.The District Collector,
 Tiruppur District,
 Tirupur.

62.Tahsildar,
 Kangayam Taluk,
 Kangayam.

63.The Sub Registrar,
 Sub Registrar's Office,
 Kangayam.

64.The Revenue Inspector,
 Kangayam.

65.The Village Administrative Officer,
 Sivanmalai.

..Respondents

PRAYER: Review Application filed under Order 47 Rule 1 & 2 read with Section 114 of C.P.C, to review the common order dated 28.06.2018 made in S.A.No.536 of 2017, on the file of this Court.

Review Application No.213 of 2018:

The Executive Officer,
 A/m.Subramaniaswamy Thirukovil,
 Sivan Malai Village,
 Kangayam Taluk,
 Tirupur District.

..Petitioner

Vs.

- 1.K.S.Arumugam
- 2.K.S.Seenivasan
- 3.M.Nalli Krishnan
- 4.S.Muthulakshmi
- 5.S.Ganesh babu
- 6.S.Kannan
- 7.S.Murugesan
- 8.S.Rajendran
- 9.P.Subramaniam
- 10.B.Khaja Mohideen
- 11.S.Pappathi
- 12.V.Gopalakrishnan
- 13.Priya
- 14.P.Baranikumar
- 15.S.Pappathi
- 16.D.Neeladevi
- 17.R.Padmavathi
- 18.Prasath @ T.Amirdha Sivaprasath
- 19.K.Sivabalaji
- 20.S.Gnanasekaran
- 21.S.Sivakumar
- 22.K.M.Mohammed Sait
- 23.S.Noorjahan Begam
- 24.S.Batchu B.Meerabanu
- 25.P.Subramaniam
- 26.S.Kumar
- 27.K.P.Velusamy
- 28.M.Govindaraju @ Govindaraj
- 29.Duraisamy Gounder
- 30.Shanmuga Devi
- 31.S.Gowri
- 32.V.Santhi
- 33.S.Sasikala
- 34.S.E.Sampathkumar
- 35.M.Gopalsamy
- 36.K.M.Ravi
- 37.P.Arumugam
- 38.P.Palanisamy
- 39.K.S.Rajendran
- 40.P.Thangamuthu
- 41.P.Mohanasamy
- 42.P.Sivasami



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- 43.Manjula
- 44.D.Balasubramani
- 45.V.Velusamy
- 46.M.Semalaiappan
- 47.K.P.Velusamy
- 48.V.Muthukumar
- 49.R.Nandhakumar
- 50.C.Senthilkumar
- 51.M.Chandrakumar
- 52.D.Sivanmalaiyappan
- 53.D.Senthilkumar
- 54.M.Karthik
- 55.M.Usharani
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Sub Registrar's Office,
Kangayam.

64.The Revenue Inspector,
Kangayam.

65.The Village Administrative Officer,
Sivanmalai.

..Respondents

PRAYER: Review Application filed under Order 47 Rule 1 & 2 read with Section 114 of C.P.C, to review the common order dated 28.06.2018 made in S.A.No.544 of 2017, on the file of this Court.

For Petitioner : Mr.R.Balachandran for
Mr.VR.Shanmuganathan

COMMON ORDER

All the three Review Applications are filed to review the common judgment and decree of this Court dated 28.06.2018 made in S.A.Nos.543, 536 and 544 of 2017.

2.The learned counsel for the review petitioner raised number of grounds to review the common judgment dated 28.06.2018 made in S.A.Nos.543, 536 and 544 of 2017. From the judgment of this Court sought to be reviewed, it is seen that all these points were raised in the Second Appeals and were rejected based on the materials on record on fact and law.

3.The learned counsel for the review petitioner, in fact is re-arguing the issues which were already decided in the Second Appeals. It is well settled that in a review petition, the review petitioner is not entitled to re-argue the matter or argue raising new points. The review petition can be entertained only when there is error on the face of the judgment or order. Further, Hon'ble Apex Court has

held that by changing the counsel, review petitioner is not entitled to maintain the said review petition.

4. In the judgments reported in **MANU/UP/0079/2005 [Mohan Lal Bagla Vs. Board of Revenue and others.]** and **(1997) 9 SCC 736 [Tamil Nadu Electricity Board and another Vs. N.Raju Reddiar and another]**, it has been held by the Hon'ble Apex Court that in a Review Application, change of counsel is not permissible as the present counsel will not be knowing the points put forth by the earlier counsel. The relevant paragraphs of the above judgments are as follows:

(i)(1997) 9 SCC 736 [Tamil Nadu Electricity Board and another Vs. N.Raju Reddiar and another]:

"1. It is a sad spectacle that new practice unbecoming of worthy and conducive to the profession is cropping up. Mr. Mariaputham, Advocate-on-Record had filed vakalatnama for the petitioner-respondent when the special leave petition was filed. After the matter was disposed of, Mr. V. Balachandran, Advocate had filed a petition for review. That was also dismissed by this Court on April 24, 1996. Yet another advocate, Mr. S.U.K. Sagar, has now been engaged to file the present application

styled as "application for clarification", on the specious plea that the order is not clear and unambiguous. When an appeal/special leave petition is dismissed, except in rare cases where error of law or fact is apparent on the record, no review can be filed; that too by the advocate on record who neither appeared nor was party in the main case. It is salutary to not that court spends valuable time in deciding a case. Review petition is not, and should not be, an attempt for hearing the matter again on merits. Unfortunately, it has become, in recent time, a practice to file such review petitions as a routine; that too, with change of counsel, without obtaining consent of the advocate on record at earlier stage. This is not conducive to healthy practice of the Bar which has the responsibility to maintain the salutary practice of profession. In Review Petition No.2670/96 in CA No.1867/92, a Bench of three Judges to which one of us, K. Ramaswamy, J., was a member, has held as under:

"The record of the appeal indicates that Shri Sudarsh Menon was heard and decided on merits. The Review Petition has been filed by Shri Prabir Chowdhury who was neither an arguing counsel when the appeal was heard nor was he present at the time of arguments. It is unknown on what basis he has written the grounds in the Review Petition as if it is a rehearing of an

appeal against our order. He did not confine to the scope of review. It would be not in the interest of the profession to permit such practice. That part, he has not obtained " No Objection Certificate" from the Advocate-on-Record in the appeal, in spite of the fact that Registry had informed him of the requirement for doing so. Filing of the "No Objection Certificate" would be the basis for him to come on record. Otherwise, the Advocate-on-Record is answerable to the Court. The failure to obtain the "No Objection Certificate" from the erstwhile counsel has disentitled him to file the Review Petition. Even otherwise, the Review Petition has no merits, It is an attempt to reargue the matter on merits.

On these grounds, we dismiss the Review Petition".

2.Once the petition for review is dismissed, no application for clarification should be filed, much less with the change of the advocate-on-record. This practice of changing the advocates and filing repeated petitions should be deprecated with heavy had for purity of administration of law and salutary and healthy practice."

(ii)MANU/UP/0079/2005 [Mohan Lal Bagla, son of Late Gopi Kishan Bagla Vs. Board of Revenue and others]:

"11. Otherwise also for a new counsel it may not be proper to move for the reasons as indicated below. In respect to question involved and to the argument which were advanced by learned counsel appearing for the party and in respect to queries which were made by the Court whether were satisfactorily replied or not, it cannot be possibly in the knowledge of another counsel who was not appearing at the time of first hearing of case. Take a case that a question was put to a counsel but he was not in a position to answer it, a particular document in support of claim was asked to be placed but learned advocate is not in a position to show and refer to the relevant document, and on a particular aspect, he might have virtually surrendered for the reason that he probably had no valid reply and thereafter, judgment comes, dealing with all the aspects. Now review petition is filed on the ground that something was not considered which was argued or there is wrong observation about certain facts or on alike ground then it has to be said that a new counsel is debarred from raising all these objections or objection of a like nature....."

5.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, in 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 judgment reported in **2017 4 SCC 692 [Sasi (dead) through legal representatives Vs. Aravindakshan Nair and others]**, the Hon'ble Apex Court in paragraph Nos.8 & 9 held as follows:

"8. In *Parsion Devi V. Sumitri Devi Parsion Devi Vs. Sumitri Devi*, 1997 8 SCC 715, the Court after referring to *Thungabhadra Industries Ltd., Meera Bhanja (Smt) V. Nirmala Kumari Choudhury (Smt). Meera Bhanja (Smt) V. Nirmala Kumari Choudhury (Smt).*, 1995 1 SCC 170 and *Aribam Tuleshwar Sharma V. Aribam Pishak Sharma Aribam Tuleshwar Sharma V. Aribam Pishak Sharma*, 1979 4 SCC 389, held thus:

"9. Under Order 47 Rule 1 CPC, a judgment may be open to review inter alia if there is a mistake or an error apparent on the face of the record. An error which is not self evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of the record justifying the Court to exercise its power of review under Order 47 Rule 1 CPC. In exercise of the jurisdiction under Order 47 Rule 1 CPC, it is not permissible for an erroneous decision to be 'reheard and corrected'. A review petition, it must be

remembered, has a limited purpose and cannot be allowed to be 'an appeal in disguise'".

9.The aforesaid authorities clearly spell out the nature, scope and ambit of power to be exercised. The error has to be self evident and is not to be found out by a process of reasoning. We have adverted to the aforesaid aspects only to highlight the nature of review proceedings."

8.In the light of the dicta laid down by the Hon'ble Apex Court as well as by the Division Benches of this Court, I am of the considered view that the earlier judgment or order of the Court can be reconsidered only if there is an error of fact or law apparent on the face of record and in that event, the said error can be rectified. Otherwise, a Review Application is not maintainable. The ratio in the judgments of the Hon'ble Apex Court and Division Bench of this Court referred to above are squarely applicable to the facts of the present case. In the present case on hand, the Review Applicant failed to point out any error in the common judgment, warranting to review the said judgment. I do not find any error apparent on the face of record in the

common judgment, dated 28.06.2018 made in S.A.Nos.543, 536 and 544 of 2017. Accordingly, these Review Applications fail.

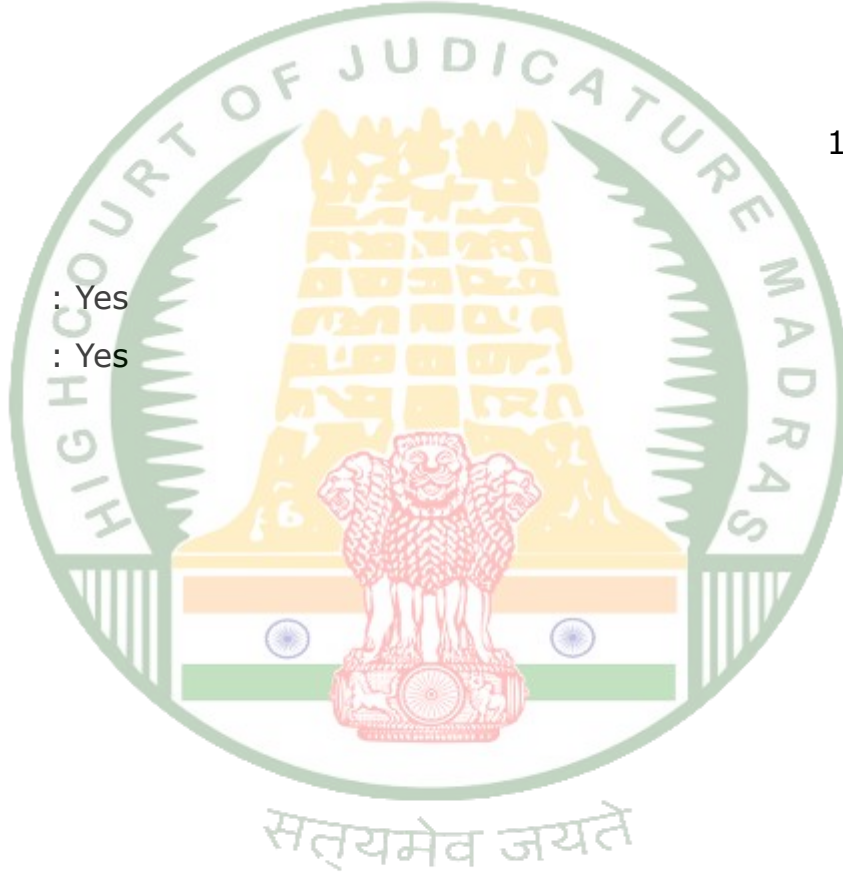
10. In the result, all the Review Applications are dismissed. No costs.

12.03.2019

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V.M.VELUMANI, J.
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12.03.2019