

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 01.08.2019

Pronounced on : 19.09.2019

Coram

The Honourable Mr. Justice R. SUBBIAH
and
The Honourable Mr. Justice C. SARAVANAN

Review Application Nos. 128, 129, 130, 131, 133, 134, 135 and 142 of 2019
and
Contempt Petition Nos. 391, 392, 393, 473, 475, 477, 476 and 728 of 2019

Review Application No. 128 of 2019

The Sub Collector
Tirupattur
Vellore District

.. Review Applicant

Versus

D. Karunanithi

.. Respondent

Contempt Petition No. 391 of 2019

A. Gowrammal

.. Petitioner

Versus

The Sub Collector
Tirupattur
Vellore District

.. Respondent

Review Application No. 128 of 2019:- Review Petition filed under Order 47 Rule 1 read with Section 114 of The Code of Civil Procedure to review the Order dated 28.09.2018 passed in WP No. 33434 of 2017 on the file of this Court

Contempt Petition No. 391 of 2019:- Petition filed under Section 11 of The Contempt of Courts Act praying to punish the respondent for the wilful disobedience of the order dated 05.09.2018 passed by this Court in WP No. 23086 of 2018 under the provisions of Contempt of Courts Act.

Review Application No. 128 of 2019

For Review Applicant : Ms. Narmadha Sampath
Additional Advocate General
assisted by Mr. V. Shanmuga Sundar
Special Government Pleader

For Respondent : Mr. S. Doraisamy

Contempt Petition No. 391 of 2019

For Petitioner : Mr. S. Doraisamy
For Respondent : Ms. Narmadha Sampath
Additional Advocate General
assisted by Mr. M. Elumalai
Government Advocate

COMMON ORDER

R. SUBBIAH, J

The Review Applicant has come forward with the above Review Application Nos. 128, 129, 130, 131, 133, 134, 135 and 142 of 2019 to review the orders passed by this Court in the respective writ petitions, on identical grounds. The respondent in the review applications have filed Contempt Petition Nos. 391, 392, 393, 473, 475, 477, 476 and 728 of 2019 complaining non-compliance of the order passed by this Court by the Review Applicant. The learned counsel appearing for both sides have advanced common argument in support of their respective case. In such circumstances, all these Review Applications as well as Contempt Petitions are taken up for hearing together and are disposed of by this common order.

2. For the sake of convenience, the parties are referred to as Review Applicant and respondent, as has been arrayed in the Review Applications.

3. The respective respondent herein have filed Writ Petition Nos. 33434, 21114, 26755, 27035, 23086, 23764, 23765 and 26979 of 2018 contending *inter alia* that their parents, brothers, sisters or relatives, as the case may be were given community certificate but when similar certificate was applied by the writ petitioners, either for themselves, or for their children, it was either refused or not considered by the Review applicants. It is in those circumstances, the writ petitioners have filed the above writ petitions before this Court.

4. When the writ petitions were taken up for hearing, this Court, finding that community certificate had already been issued to the parents, brothers, sister or relatives of the petitioners and such certificate has not been cancelled by the State Level Scrutiny Committee after following the due process of law, a direction was issued to the Review Applicants to issue community certificate, as prayed for by the petitioners in the writ petitions. Such direction issued by this Court in the writ petitions filed by the respondent herein, is sought to be reviewed at the instance of the Review Applicants herein.

5. The learned Additional Advocate General, in her argument, had made reference to the merits or otherwise of the validity of the certificates issued to the parents, brothers, sisters or relatives of the writ petitioners/respondent. According to the learned Additional Advocate General, the community certificates issued to the parents, brothers, sisters or relatives of the writ petitioners/respondent itself is not genuine and therefore, the writ petitioners/respondent cannot rely upon the same to issue similar certificates as prayed for by them in the respective writ

petition. The learned Additional Advocate General has also made reference to the fact that the community certificates issued to the parents, brothers, sisters or relatives of the respondent has been issued without following the dictum laid down by the Honourable Supreme Court in the case of *Kumari Madhuri Patil Vs. Additional Commissioner*, reported in AIR 1995 SC 94 = 1994 (6) SCC 241, and therefore, the direction issued by this Court to issue community certificates as prayed for in the respective writ petitions has to be reviewed.

6. Per contra, the learned counsel appearing for the respective writ petitioner (s)/respondent (s), would vehemently contend that the Review Applicant has not made out any case for reviewing the orders passed by this Court in the writ petitions. There is no error apparent in the order passed in the writ petitions warranting a review. While disposing of the writ petitions, this Court considered the fact that community certificates were already issued to the blood relatives of the writ petitioners such as father, mother, brother, sister and relatives and therefore, issued a direction to the Review Applicant to issue community certificate(s) to the writ petitioners/respondent or their children, as the case may be. This Court also considered that such certificates issued to the blood relatives of the writ petitioners/respondent has not been cancelled by the State Level Scrutiny Committee and there is no embargo in issuing such direction. However, the review applicant did not comply with the directions issued by this Court in the writ petitions and thereby disobeyed the orders passed by this Court. Therefore, on behalf of the writ petitioners/respondent, it is vehemently contended that the inaction on the part of the review applicant to issue community certificates to the writ petitioners or their

children, as the case may be, as has been directed by this Court, is nothing short of violation of the order passed by this Court and therefore prayed for initiating contempt proceedings against the respective review applicant.

7. We have heard the learned Additional Advocate General appearing for the Review applicants and the learned counsel for the respective writ petitioner/respondent and perused the materials placed on record. At the outset, we find that the argument advanced on behalf of the Review Applicants that the community certificates issued to the blood relatives of the respective writ petitioner itself are ingenuine, cannot be appreciated by this Court in the present Review Applicants. The fact remains that such certificate issued to the blood relatives of the writ petitioners has not been cancelled in a manner known to law and it was also admitted by the Review Applicant. Whether the community certificate issued in favour of the blood relatives of the writ petitioner is genuine or not, cannot be either canvassed before this Court or this Court can consider such a plea and it is for the State Level Scrutiny Committee to examine the same. Thus, the community certificates issued in favour of the blood relatives of writ petitioners have not been cancelled, was the basis for this Court to issue a direction to the Review Applicant to issue community certificates as prayed for in the writ petition. Even otherwise, to maintain these Review applicants, it must be shown that there is an error apparent on the face of the records and in the absence of the same, the Review Application, in our opinion, has been filed to re-argue and re-agitate the case which was already considered by this Court while issuing the direction to the Review Applicants. The grounds which are raised in the present Review Application have already been

raised and considered by this Court in the writ petition, while so, the Review Application cannot be entertained. In this context, useful reference can be made to the decision of the Honourable Supreme Court in the case of (**Kamlesh Verma vs. Mayawati and others**) reported in **(2013) 8 SCC 320** wherein the Honourable Supreme Court, after examining various judgments, has laid down the circumstances, as to when the Court can review its own judgments. The relevant portion of the judgment is extracted as under:

"12. This Court has repeatedly held in various Judgments that the jurisdiction and scope of review is not that of an appeal and it can be entertained only there is an error apparent on the face of record. A mere repetition through different counsel, of old and overruled arguments, a second trip over ineffectually covered grounds or minor mistakes of inconsequential import are obviously insufficient....."

... ..

"19. Review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of Order XL VII Rule 1 of CPC. In review jurisdiction, mere disagreement with the view of the Judgment cannot be the ground for invoking the same. As long as the point is already dealt with and answered, the parties are not entitled to challenge the impugned Judgment in the guise that an alternative view is possible under the review jurisdiction."

8. In the light of the above decision of the Honourable Supreme Court, we only wish to observe that if the Review Applicants are in any manner aggrieved by the order passed by this Court in the writ petitions, it is well open to them to file an appeal before the Honourable Supreme Court and this review is not maintainable. But, the present Review Applications have been filed purportedly to argue that the community certificates issued to the blood relatives of the writ petitioners itself are not genuine and therefore, no direction could be issued to the Review Applicants to issue community certificates to the writ petitioners. Such an argument advanced on behalf of the Review Applicants cannot be countenanced

and it is liable only to be rejected. However, we wish to observe that the Review Applicants shall issue provisional community certificates to the respective writ petitioner (s) and the entitlement of the writ petitioner (s) to get a permanent community certificate will depend on the outcome of the enquiry conducted by the State Level Scrutiny Committee in respect of the community certificates issued to the blood relatives of the writ petitioners. Further, if the community certificate issued to the blood relatives of the writ petitioners were found to be genuine and valid, then the writ petitioners shall also be entitled to get permanent community certificate from the Review Applicants. Therefore, while issuing provisional community certificate to the writ petitioners, the Review Applicants shall make an endorsement to the effect that such certificate issued to them is subject to the outcome of the enquiry pending before the State Level Scrutiny Committee with respect to the community certificate issued to the blood relatives of the writ petitioner.

9. With the above direction, we dispose of the Review Applications. No costs. Post the Contempt Petitions after six weeks for reporting compliance.

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(R.P.S.J.,)

(C.S.N.J.,)

19-09-2019

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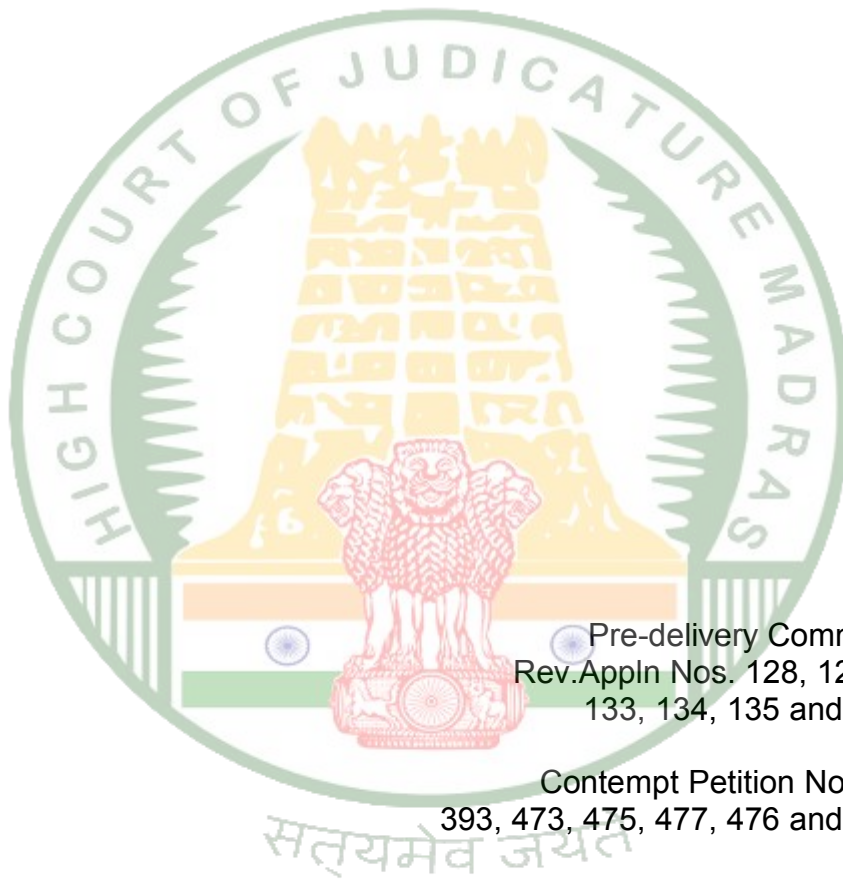
Speaking Order : Yes / No

Index : Yes / No

Rev aplnw 128 of 2019

R. SUBBIAH, J
and
C. SARAVANAN, J

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Pre-delivery Common Order in
Rev.Appln Nos. 128, 129, 130, 131,
133, 134, 135 and 142 of 2019
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