

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.03.2020

CORAM :

The Hon'ble Mr.A.P.SAHI, THE CHIEF JUSTICE

AND

The Hon'ble Mr.JUSTICE SUBRAMONIUM PRASAD

Review Application No.42 of 2010
in W.A.No.9 of 2005

- 1.A.Mohammed Ali (died)
- 2.Jaitoon Beevi
- 3.M.Siddique
- 4.M.Fatima
- 5.J.Dhilsukh Begum
- 6.A.Umar Salma
- 7.M.Sathiq
- 8.Mohammed Yusuf

... Appellants

(*LRs 2 to 8 are brought on record vide order dated 06.03.2020 in C.M.P.No.5768 of 2020*)

-vs-

- 1.The Tamil Nadu Industrial Investment Corporation Limited,
K.R.T. Building, II Floor,
33 Promenade Road
Cantonment,
Tiruchirapalli -1.

- 2.Mrs.Usha Rani

... Respondents

Review Application filed under Order XVII, Rule 1 read with Section 114 of the Code of Civil Procedure, against the order dated 26.09.2008 in W.A.No.9 of 2005.

For Appellant : Mr.A.R.L.Sundaresan (Senior Counsel)
for Mrs.A.L.Gandthimathi

For Respondents : Mr.K.V.Sundararajan [R1]
Mr.M.Kamalanathan [R2]

JUDGMENT

(Delivered by *The Hon'ble Chief Justice*)

Heard Mr.A.R.L.Sundaresan, learned Senior Counsel along with Mrs.A.L.Ganthimathi for the applicant, and learned counsel for the respondents who contends that even otherwise the impugned judgment on merits is sustainable and therefore, does not call for any review, even if the final judgment of the Apex Court was not brought to the notice of this Court.

2. The background, in which these arguments have been advanced is that the judgment under review dated 26.09.2008 was delivered noticing the interim order passed by the Apex Court against the judgment arising out of the judgment of a Division Bench of the Karnataka High Court.

3. By the time the writ appeal giving rise to this review was decided, the Apex Court had finally dismissed the appeal upholding the Division Bench judgment of the Karnataka High Court in the case of “*Karnataka State Financial Corporation Vs. N.Narasimahaiah and others*” reported in (2008) 5 SCC 176.

4. The judgment of the Division Bench of Karnataka High Court which was under challenge primarily raised the same issue as raised herein that was upheld by the Supreme Court.

5. Mr.A.R.L.Sundaresan, learned counsel for the applicant contends that this fact was not brought to the notice of the Court nor it appears to have been taken notice of by the Court otherwise while delivering the judgment on 26.09.2008, as a result whereof, the impugned judgment suffers from an error apparent on the face of record.

WEB COPY

6. The learned judges, who dealt with the matter have referred to the interim order passed by the Apex Court, but have not taken notice of the final judgment which had been delivered much earlier on 13.03.2008. We have perused the said judgment, copy whereof has been placed before us.

7. The aforesaid facts remain unrebutted and in view of the aforesaid judicial intervention already having come into existence, the Division Bench having not noticed it, arrived at a different conclusion which is clearly an error apparent on the face of record and therefore, the matter will have to be revisited and the judgment dated 26.09.2008 will have to be recalled. Accordingly, a good ground for review has been made out. We allow this review application and recall the judgment dated 26.09.2008. No costs.

8. The appeal shall stand restored to its original number and shall now be listed on 21.04.2020 before the appropriate bench dealing with the matter to be heard and decided on merits.

(A.P.S., CJ.) (S.P., J.)
06.03.2020

Index : Yes/No
Internet : Yes/No

सत्यमेव जयते

sni

To

WEB COPY

The Tamil Nadu Industrial Investment
Corporation Limited,
K.R.T. Building, II Floor,
33 Promenade Road
Cantonment,
Tiruchirapalli -1.

Review Application No.42 of 2010

The Hon'ble Chief Justice
and
Subramonium Prasad, J.

(sni)



Review Application No.42 of 2010

WEB COPY

06.03.2020