



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.09.2021

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Review Application (MD).No.172 of 2018

in

Writ Appeal (MD) No.1064 of 2014

- 1.S.Panjavarnam
- 2.Manimurugan
- 3.Susila
- 4.Ramila
- 5.S.Krishnadevi
- 6.K.Kanagavalli
- 7.Kathiresan
- 8.Selvi
- 9.R.Pappammal
- 10.V.Meenakshi
- 11.Vijayakumar
- 12.Pushpavalli
- 13.Annalakshmi
- 14.Thangeswaran
- 15.R.Ramuthai
- 16.Vairamani
- 17.R.Rajendran
- 18.Amutha
- 19.Selvi
- 20.M.Dhanalakshmi
- 21.V.Saraswathi
- 22.Ram Babu
- 23.Vasantha
- 24.Savithri
- 25.Usha
- 26.Lalitha
- 27.Nirmala
- 28.Padma
- 29.Lakshmi
- 30.Jaya
- 31.Durga
- 32.Kalavathi
- 33.B.Devi
- 34.Rajeshwari
- 35.Sumathi
- 36.Gnanam
- 37.Muthulakshmi
- 38.Muthu
- 39.R.Ramamoorthy
- 40.Mariammal



- 41.Muthukumar
- 42.Banumathi
- 43.Sagunthala
- 44.Selvi
- 45.Divya
- 46.T.K.Saroja
- 47.K.G.Lakshmi
- 48.Vimala
- 49.N.Geetha
- 50.K.Krishnaveni
- 51.Radha
- 52.M.Visalakshi
- 53.L.Chellammal
- 54.S.Chellammal
- 55.R.A.Lakshmi
- 56.Renuka Devi
- 57.Kotta Malai
- 58.Deivanai
- 59.Samayamuthu
- 60.Panchavarnam
- 61.Kuncharam
- 62.Muniyamal
- 63.Mareeswari
- 64.Karuppae
- 65.Mahalakshmi
- 66.Parameshwari
- 67.M.Vijaya
- 68.Nagajothi
- 69.Chithra
- 70.Panchavarnam
- 71.G.Vijaya
- 72.D.Pappa
- 73.Muthu Pandi
- 74.Pandiyammal
- 75.Ponnumayil
- 76.Jeeva
- 77.R.Meenakshi
- 78.Muniyammal
- 79.Manimekalai
- 80.Pappathi
- 81.Thirukkammal
- 82.Krishnammal
- 83.Maruthavalli
- 84.Chellappandiyammal
- 85.Meenakshi Sundari
- 86.Pothumani
- 87.B.Dhanalakshmi
- 88.Indra
- 89.Santhi
- 90.R.Padmavathy
- 91.Rajeshwari



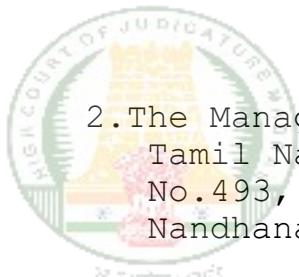
92.K.V.Devi
93.Pandiyammal
94.Vasantha
95.S.Subbu Lakshmi
96.Parameswari
97.Chellamani
98.Valli
99.Subbulakshmi
100.Dhanalakshmi
101.Manju
102.Chithra
103.Rajeshwari
104.Durai
105.Rajesh
106.Shenbagavalli
107.Chandra
108.Saroja
109.Kamala
110.K.Vasanthi
111.Rathiga
112.Sarojini
113.Karpagavalli
114.Chandra
115.Pandi
116.Santha
117.P.Packiyam
118.Jeya
119.Nagarathinam
120.Ravindranath
121.R.Ganesan
122.Murugan
123.M.Arasakkal
124.Indumathi
125.M.Chellapani
126.Banu
127.V.L.Maheshwari
128.Meena
129.Umaiyal
130.Chandrasekaran
131.Ganesh
132.Mookkammal
133.Kumaresan
134.Pitchaiyammal
135.Kuppumani

... Review Petitioners

-vs-

1.The Government of Tamil Nadu,
Rep. by its Secretary,
Housing Department, Chennai.

<https://hcservices.ecourts.gov.in/hcservices/>



2.The Managing Director,
Tamil Nadu Housing Board,
No.493, Anna Salai
Nandhanam, Chennai.

3.The Chief Executive Engineer,
Tamil Nadu Housing Board,
Chennai - 600 035.

4.The Executive Engineer cum
Administrative Officer,
Madurai Housing Unit,
Madurai Housing Board,
Avaniyapuram, Madurai.

5.The Assistant Secretary
(Allotment) Tamil Nadu Housing Board,
Chennai - 35.

6.The Revenue Divisional Officer,
Revenue Department,
Madurai.

7.Saravana Kumar

8.Jeyanthi

9.Roopavathi

10.Asha

11.J.S.Nirmala

12.Parameshwari

13.Kantham

14.Ramana

15.Neelavathi

16.Susila

17.K.G.Ramila

18.J.B.Girija

19.J.S.Dharsini

20.Amutha

21.Ayyammal

22.Thangeshwari

23.Vijaya

24.Ramnath

25.Gracy

26.Rajeshwari

27.Thangam

28.Nagoor Ammal

29.Nagalakshmi

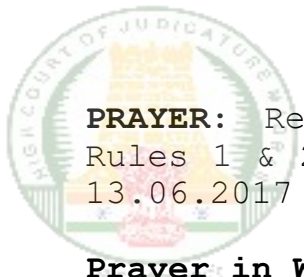
30.Vasanth

31.L.P.Prema

32.Muniyammal

33.Manimekalai

... Respondents



PRAYER: Review Application under Section 114 read with Order 47 Rules 1 & 2 of Code of Civil Procedure to review the judgment dated 13.06.2017 made in W.A.(MD) No.1064 of 2014.

Prayer in WA(MD) .1064/ 2014:

To prefer this Memorandum of grounds of Writ appeal before this Honourable Court against the order of His Lordship Honourable Mr. Justice S. Nagamuthu dated 31.07.2014 passed in WP(MD) No. 7175/2009 on the file of this Honourable Court.

For Petitioners	: Mr.Isaac Mohanlal Senior Counsel for Mr.G.M.Xavier
For Respondents	: Mr.P.Subbaraj Special Government Pleader [For R1&R6] Mr.Mohaboob Athiff Standing Counsel [For R2 to R5] R7 to R33 - Given up

ORDER

T.S.Sivagnanam, J.

This review application has been filed to review the judgment and order dated 13.06.2017 in W.A.(MD).No.1064 of 2014.

2.The review petitioners who were the appellants are totally 162 in number. They had filed W.P.No.7175 of 2009 praying for issuance of writ of Mandamus to direct the respondents to divide the land in S.No.411/1 and 1/1 at Avaniyapuram into housing plots and allot the same to the petitioners as was assured by the respondent.

3.The learned Single Bench by order dated 31.07.2014 dismissed the writ petition holding that the land is to be used for industrial purpose and cannot be allotted to the writ petitioners as this was the stand taken by the Housing Board. Even after dismissing the writ petition, an observation was made that it is open to the writ petitioners to make an application to the District Collector seeking alternative site in any other place and if such an application is made, it is for the District Collector to consider the same.

4.Aggrieved by the same, the petitioners filed a writ appeal which was dismissed by judgment dated 13.06.2017 and seeking review of the said judgment and order, the petitioners are before us by way of this review application.

5.We have elaborately heard Mr.Isaac Mohanlal, learned senior counsel for Mr.G.M.Xavier, learned counsel for the review petitioners, Mr.Subbaraj, learned Government Counsel for the respondents 1 and 6 and Mr.Mohaboob Athiff, learned Standing Counsel



for the respondents 2 to 5.

6.The settled legal principle is that a review application is not an appeal in disguise. Unless and until the review petitioner makes out a case of an error which is apparent on the face of the judgment or order, the Court cannot exercise its review jurisdiction. This would mean that the review petitioner cannot seek to re-argue the appeal or the writ petition under the guise of filing a review application. Precisely, this is what the review petitioners seek to do before us in this review application.

7.We support such conclusion for the following reasons. It is submitted by the learned senior counsel for the appellants/review petitioners that two counter affidavits were filed by the Housing Board, one dated 28.08.2010 and other dated 28.01.2011. In both the counter affidavits, inconsistent stand has been taken in the matter of whether 'B' memos were issued to the petitioners or not. Therefore, it is submitted that when the Housing Board has accepted in one of the counter affidavit that 'B' memos were issued to the petitioners, it goes without saying that their occupation has been recognized as encroachments and they would be entitled to seek for allotment of house sites or atleast alternate site in a different location.

8.Firstly, it needs to be pointed out that issuance of 'B' memos does not in any create any vested right with the petitioners to claim to continue to be in possession of the land which they have encroached and also simultaneously claim to sub divide the land and allot plots to the encroachers. This proposition can never be accepted, as if done, it would putting a premium on a person who had violated the law and encroached in the property vested with the Tamil Nadu Housing Board pursuant to the land acquisition done by the Government of Tamil Nadu. That apart, there is no vested right for the petitioners to claim that they shall be allotted alternate site.

9.We are informed by the learned Standing Counsel for the Housing Board that soon after the dismissal of the writ petition, the review petitioners were evicted but thereafter they once again forcibly entered upon the land. It is further stated that even much earlier in the year 1986 the review petitioners were evicted.

10.The learned senior counsel appearing for the petitioners submitted that this was never the stand taken by the Housing Board in their counter affidavits filed in the writ petition.

11.Be that as it may, all the petitioners are to be termed as rank trespassers into the Government property and a different terminology by terming them as encroachers would not make things better nor change the legal position in their favour. We find that there is no error in the judgment and order passed in the



writ appeal calling for exercise of review jurisdiction.

12. Accordingly, the review application stands dismissed. No costs.

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Sd/-

Assistant Registrar (CS II)

/ /2021

Sub Assistant Registrar (CS)

To

1. The Government of Tamil Nadu,
Rep. by its Secretary,
Housing Department, Chennai.

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Tamil Nadu Housing Board,
No.493, Anna Salai
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Revenue Department,
Madurai.

+1 CC to M/s.G.M.XAVIER, Advocate (SR-29212[F] dated 15/09/2021)

+1 CC to M/s.SPL. GP (SR-29101[F] dated 15/09/2021)

Rev.Applc. (MD) No.172 of 2018

14.09.2021

RS (27.09.2021) 7P 9C

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