



Review Application No.47 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2022

CORAM :

THE HON'BLE MR. JUSTICE T. RAJA

AND

THE HON'BLE MR. JUSTICE K.KUMARESH BABU

Review Application No.47 of 2022 and W.M.P. Nos.8306 and 8307 of 2022

A.Aruljothi

.. Review Applicant

Vs.

1.M.Kuppusamy

2.K.Srinivasan

3.Union of India,
rep. by its Secretary to Government,
Department of Cultural Affairs,
Room No.501, "C" Wing,
Shastri Bhawan,
New Delhi – 110 015.

4.The District Collector,
Kancheepuram District,
Collectorate Office,
Thaiyar Kullam,
Kancheepuram – 631 501.

5.The Superintendent/Conservator,
Archaeological Survey of India,
Fort St. George,
Chennai – 600 009.

6.The Conservation Assistant,



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Archaeological Survey of India,
Kancheepuram Sub-Circle,
Vaikundaperumal North Mada Street,
Kancheepuram-631 502.

7.The Commissioner,
Kancheepuram Municipality,
Kancheepuram District – 631 502.

8.The Thasildar,
Kancheepuram Taluk Office,
Kancheepuram District – 631 501.

9.The Superintendent of Police,
Office of the Superintendent of Police,
Thaiyar Kullam,
Kancheepuram District – 631 501.

10.The Inspector of Police,
B-1, Kancheepuram Police Station,
Kancheepuram District-631 502.

.. Respondents

Review Application filed under Order XLVII Rule 1 read with Section 114 of the Code of Civil Procedure to review the order dated 04.08.2021 passed in W.P.No.7376 of 2021.

For Applicant : Mr.D.R.Arun Kumar

For Respondents : No appearance

ORDER

(Order of the Court was made by **T.RAJA, J.**)

This Review Application has been filed to review the order dated 04.08.2021 passed by this Court in W.P. No.7376 of 2021.

2.Learned counsel for the review applicant submitted that pursuant to



the order dated 04.08.2021 passed by the Division Bench of this Court in W.P.

No.7376 of 2021 directing the District Collector, Kancheepuram District and other competent authorities to proceed further for taking appropriate action against the review applicant/9th respondent therein for removal of the illegal unauthorised construction in the building in question in accordance with law, the review applicant filed SLP (Civil) No.13460 of 2021 before the Hon'ble Apex Court. Learned counsel for the review applicant further submitted that the Hon'ble Apex Court vide Order dated 02.09.2021, while observing that after arguing sometime, learned counsel for the petitioner wishes to withdraw the present special leave petition, has dismissed the same as withdrawn. After dismissal of the S.L.P. (Civil), an application was filed by the review applicant under RTI seeking certain vital five questions namely, 1) Provide the details of name and address of the persons who construction within 100 meters of the some temples? 2)Kindly furnish the copy of papers received by the individuals within the 100 mts.? 3)On what basis the NOC issued to the constructions in the prohibited area of above temples? 4)Please furnish the name and address of the individuals who have constructed without NOC in the prohibited area of the above temples? and 5)What is the action taken by ASI against the individuals who constructed new buildings within the prohibited area of 7 ASI monuments?

Pursuant to the said Application received by the Archaeological Survey of India



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on 06.10.2021, the Assistant Central Public Information Officer, Senior Conservation Assistant, ASI, Kanchipuram Sub Circle, vide letter dated 12.10.2021 had replied for the above five questions namely, 1)As per available records of this office, list enclosed in Annexure; 2)No such NOC issued by this office; 3)Does not arise; 4)Please refer the reply for the question No.1 above, however with regard to the permission issued by the local authorities of Government of Tamil Nadu, if any, this office does not have the data of the permission issued by the local authorities of Government of Tamil Nadu for such construction and 5)In respect of illegal constructions in the prohibited area of the centrally protected ASI monuments, stop notices have been issued to the individuals as per rules and copies endorsed to revenue/ police authorities to take action against the illegal constructions.

3.Learned counsel for the review applicant further submitted that when several other buildings are allowed to stand up within the prohibited area of Archaeological Survey of India Monument Sri Vaikuntaperumal Temple, Kancheepuram, it is not known on what basis the review applicant's building alone has been chosen for demolition that shows a total discrimination attitude, which is against Article 14 of the Constitution of India directing the State to follow the equality. Since there is an error apparent on the face of record, the



present application has been filed.

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4.We are unable to agree with the said submissions made by the learned counsel for the review applicant. When the writ petitioners have filed the above W.P. No.7376 of 2021, this Court vide order dated 04.08.2021, has made it clear that in the year 2020 and 2021, when the first floor was put up, again the 9th respondent has continued to raise the un-authorised illegal construction to an extent of 1189 sq.ft. and an extent of 100 sq.ft. has been illegally constructed between the staircase and headroom area and the same has been noticed by the inspecting authority. Moreover, the fifth respondent has also stated that the entire building is constructed without planning permit from the fifth respondent and again without obtaining the no objection certificate from the Superintendent/Conservator, Archaeological Survey of India, the third respondent therein, the said deviated construction has been put up by the 9th respondent/review applicant. Aggrieved by the said order, the review applicant filed S.L.P. (Civil) No.13460 of 2021 before the Hon'ble Apex Court and the same was dismissed as withdrawn, while observing that after arguing sometime, learned counsel for the petitioner wishes to withdraw the present special leave petition. Thereafter, the review applicant has sought for certain information under RTI, the Assistant Central Public Information Officer, Senior



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Conservation Assistant, ASI, Kanchipuram Sub Circle vide reply dated

12.10.2021 had stated that in respect of illegal constructions in the prohibited area of the centrally protected ASI monuments, stop notices have been issued to the individuals as per rules and copies endorsed to revenue/police authorities to take action against the illegal constructions. Therefore, when the review applicant has admittedly put up the un-authorised illegal construction, without obtaining even the basic planning permission from the competent authority, he cannot take a stand that his building alone has been chosen for demolition. When suitable actions have been taken for removal and demolition of the illegal construction or the deviated construction, the review applicant cannot say that his building alone has been discriminated. Therefore, finding no error on the face of record, the review application is dismissed with costs of Rs.10,000/- payable by the Review Applicant to the Tamil Nadu Advocate Clerks' Association, High Court, Madras-600 104 within a period of one week from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are closed.

5.Learned counsel for the review applicant requested this Court for granting time to vacate the building, which cannot be entertained behind the back of the writ petitioners.



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(T.R., J.) (K.B., J.)
24.06.2022

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