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Review Application No.26 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.02.2023

CORAM:

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

Review Application No.26 of 2022

in

W.P.No.5169 of 2012

Muniappan

...Petitioner

VS.

- 1.The District Collector,
Dharmapuri District,
Dharmapuri.
- 2.The Revenue Divisional Officer,
Dharmapuri,
Dharmapuri District.
- 3.Tahsildar
Dharmapuri Taluk Office,
Dharmapuri,
Dharmapuri District.
- 4.The Village Administrative Office,
Thinnampatti,
Dharmapuri Taluk,
Dharmapuri District.
- 5.Vijayalakshmi
- 6.Mynavathy

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7.Vennila

8.Subramaniam

9.Jayanthi

10.Chitra

... Respondents

PRAYER : Review Application filed under Order 47 Rule 1 read with Section 114 of C.P.C. praying to review the Order dated 21.10.2021 made in W.P.No.5169 of 2012.

For Petitioner : Mr.I.Abrar Mohamed Abdullah

For Respondents : Mr.V.Ramesh,
Government Advocate (for R1 to R4)

ORDER

The review petition is filed to review the order dated 21.10.2021, passed in W.P.No.5169 of 2012.

2.The learned counsel appearing on behalf of the review petitioner mainly contended that the statement recorded based on the counter affidavit filed by the Tahsildar, Dharmapuri, that the petitioner is not even a



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registered cultivating tenant is incorrect and therefore, the order passed by this Court on 21.10.2021 is to be reviewed. The learned counsel for the review petitioner made a submission that records now produced by him had not been produced in the writ petition for adjudication.

3.The learned Additional Government Advocate appearing on behalf of the respondents raised an objection by stating that the Tahsildar filed a detailed counter affidavit and based on the counter affidavit, this Court has recorded that the petitioner is not even a registered cultivating tenant and that the Village Administrative Officer refused to receive the land revenue and issue Adangal extract to him. It is stated that the petitioner is not the land owner and therefore, he could not claim any right to pay the land revenue or register his name as tenant for the land measuring 2.47 acres in Konnangiali Majira, Thinnampatti Village, Dharmapuri Taluk and District.

4.However, this Court has recorded the above facts based on the counter affidavit filed by the Tahsildar and now again the said issue cannot be re-adjudicated through a review petition. The scope of review cannot be



expanded for the purpose of re-adjudication of the issues already decided by the Courts. The ground for appeal may not be a ground for review and more so, in the present case, the learned counsel who appeared for the petitioner in the writ petition has not filed the review petition before this Court. The review petitioner has engaged another counsel and has raised such objections on merits which cannot be re-adjudicated by this Court.

5.The Hon'ble Supreme Court of India in the case of **Tamil Nadu Electricity Board and another vs. N.Raju Reddiar and another [(1997) 9 SCC 736]** wherein it has been observed as follows:

“1.It is a sad spectacle that a new practice unbecoming and not worthy of or 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 24-04-1996. 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 note that the 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 of 1996 in CA No.1867 of 1992, a Bench of three Judges to which one of us, K.Ramaswamy, J., was a member, had held as under:

“The record of the appeal indicates that Shri Sudarsh Menon was the Advocate-on-Record when the appeal 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 not be in the interest of the profession to permit such practice. That apart, 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."

6. In the case of **Kamlesh Verma vs. Mayawati [2013 (8) SCC 320]**, the Hon'ble Apex Court held that a repetition of old and over-ruled argument is not enough to reopen the concluded adjudications and that mere possibility of two views on the subject, cannot be a ground for Review. It is also observed therein that the appreciation of evidence on record is fully within the domain of the Appellate Court and it cannot be permitted to be advanced in the Review Application.



7.In the case of **Subramanian Swamy vs. State of Tamil Nadu [2014**

(5) SCC 75], the Hon'ble Supreme Court reiterated that “Thus, even an erroneous decision cannot be a ground for the Court to undertake review, as the first and foremost requirement of entertaining a Review Petition is that the order, review of which is sought, suffers from any error apparent on the face of the order and in absence of any such error, finality attached to the judgment/order cannot be disturbed.”

8.In the case of **Tamil Nadu Electricity Board and another vs. N.Raju Reddiar and another [(1997) 9 SCC 736]**, the Hon'ble Supreme Court has again to the extent of dismissing the Review Application with an exemplary costs of Rs.20,000 as it is an abuse of the process of Court in derogation of healthy practice. In the case on hand, also the learned counsel now appearing in the Review Application had not appeared in the Civil Revision Petition, the review petitioner filed the present Review Application only by changing the counsel on record.



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9. In the present case, the grounds raised on merits cannot be re-adjudicated. The statement objected by the review petitioner has been recorded based on the counter affidavit filed by the Tahsildar and thus, the review petition is not entertained.

10. Accordingly, the petitioner has not established any error apparent on record for the purpose of entertaining the present review petition and consequently the review petition stands **dismissed**. No costs.

28.02.2023

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Index : Yes
Speaking order : Yes

To

1. The District Collector,
Dharmapuri District,
Dharmapuri.
2. The Revenue Divisional Officer,
Dharmapuri,
Dharmapuri District.



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3. Tahsildar

Dharmapuri Taluk Office,

Dharmapuri,

Dharmapuri District.

4. The Village Administrative Office,

Thinnampatti,

Dharmapuri Taluk,

Dharmapuri District.



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S.M.SUBRAMANIAM, J.

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