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Review Application No.130 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.07.2023

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

Review Application No.130 of 2014

in

W.P.No.18473 of 1994

Welfare Association for the Weakest Section,
Through its President,
Tuticorin 28/3, Masilamanipuram III Street,
Tuticorin.

...Petitioner

Vs.

S.Muthusamy (died)

1. S.Mahendran

2. The Govt. of Tamil nadu,
Rep.by the Commissioner & Secretary,
Revenue Department, Fort St.George,
Chennai-600 009.

3. The Tuticorin Government Servant's Cooperative,
Building Society Limited [EE 31]
Rep.by the Special Officer,Tuticorin.

4. M.Baskaran (impleaded for deceased R1)

... Respondents

[R4 substituted as the legal representative in the place of deceased 1st Respondent as per Court order dated 02.07.2014 by KBKVJ in MP.1/2014 in Rev.Aplw.130/2014 in WP.18473/1994.]

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PRAYER : Review Application filed under Order 47 Rule 1 read with Section 114 of C.P.C. praying to review the order passed by His Lordship Mr.Justice F.M.Ibrahim Kalifulla dated 18.10.2010 made in W.P.No.18473 of 1994 on the file of this Court.

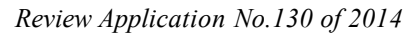
For Petitioner : Mr.Ramesh Venkata Chalapathy for
M/s.M.Sriram

For Respondents :
(R1) : Died, steps taken
(for R2) : Mr.C.Jaya Prakash, Govt.Advocate
(for R3) : Mr.S.Kadarkarai
(for R4) : No Appearance

ORDER

The review application has been instituted to review the order dated 18.10.2010 passed in W.P.No.18473 of 1994 on the file of this Court.

2.The first respondent's father, late Muthusamy filed the writ petition in W.P.No.18473 of 1994, challenging the order passed in G.O.Ms.No.447 Revenue Department, dated 14.07.1994. Elaborately considering the grounds raised by the petitioners as well as the counter filed by the



18.10.2010 as under.

cannot be sustained. Thus, looked at from any angle, I do not



find any justification at all in the order impugned in this writ petition.

15. While entertaining this writ petition, the respondents were directed to maintain status quo. Moreover, an objection was raised on the ground of locus standi of the petitioner to file the writ petition. In fact, the writ petition itself came to be dismissed on that ground earlier on 03.11.1997 and by order dated 24.03.1998 passed in W.A. No.145 of 1998, it was held that the appellant therein who is the petitioner herein was entitled to maintain the writ petition and the order dated 03.11.1997 was set aside. It was further made clear that status quo should be continued to be maintained. The learned counsel for the petitioner states that by virtue of the interim order granted earlier and the order dated 24.03.1998 passed by the Hon'ble First Bench, the park is continued to be maintained even as on date.

For all the above reasons stated, the impugned order is set aside and the writ petition stands allowed. No costs."

3.The present review application has been filed mainly on the ground that the Court failed to see the conversion and thereby permitted the third



respondent therein the writ petition, to have a community hall for scheduled cast which will be contrary to law and the public policy. In view of the fact that the main grounds raised by the review petitioner in the writ petition has not been considered, the present review application has been filed to review the said order. Further it is contended that the procedures prescribed under the revenue standing order have been complied with while passing the Government Order which was quashed by this Court in the writ petition.

4.The learned counsel appearing on behalf of the first respondent raised an objection by stating that the subject property was assigned in favour of Tuticorin Government Servants, Cooperative Building Society Limited, and the Cooperative Society formed a lay out and as per the approved lay out, the particular portion of the land was allotted for maintenance of park for the benefit of the people who all are residing in the colony. Even now, the said portion of the property is being maintained as park for the welfare of the people and therefore, the claim of the review petitioner is liable to be rejected.



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5.The fact remains that the subject property was allotted in favour of the Government Servants, Cooperative Building Society and the Government Servants were the beneficiaries of allotment of individual plots. They have purchased plots / housing sites through the Cooperative Society and constructed houses and as per the approved lay out, the portion of the house has been allotted for maintenance of park for the benefit of the people who all are residing in that colony. The land was assigned in the year 1994 and thereafter, the Government Servants Colony was formed and now at this length of time, the claim of the petitioner for conversion of the park as community hall or any other purpose cannot be made. More so, all these grounds were adjudicated elaborately by this Court while deciding the writ petition.

6.The scope of the review application cannot be expanded for the purpose of re-adjudication of the case on merits. Grounds raised in the review application on merits may be considered only in appeals and not by way of review proceedings. The grounds raised in the present review



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application relating to the merits cannot be considered and more so, the petitioner could not establish any error apparent on record for the purpose of considering the review application.

7.Thus, the review application is devoid of merits and stand **dismissed**. No costs.

13.07.2023

(Sha)

Index : Yes

Speaking order : Yes

To

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S.M.SUBRAMANIAM, J.

(Sha)

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