



Rev.Aplw (Writ).No.107 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.08.2023

CORAM :

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Review Application (Writ).No.107 of 2023

1. Dhanalakshmi
2. Ravichandar .. Petitioners

Versus

1. C.Radhakrishnan
2. The Director of Tamil Nadu Town and Country Planning,
No.807, Anna Salai,
Chennai - 600 002.
3. The Deputy Director of Town and Country Planning,
Chengalpattu Region,
No.124, Municipal Complex,
GST Road, Chengalpattu - 603 001.
4. The Sub-Registrar,
Chengalpattu,
Chengalpattu District.
5. J.Vijay Surana .. Respondents

Prayer : Review Application filed under Order XLVII R 1 of Code of Civil Procedure r/w Section 114 of Code of Civil Procedure to review the order, dated 05.06.2023 passed in W.P.No.34151 of 2022.



Rev.Aplw (Writ).No.107 of 2023

For Petitioners : Mr.L.Damodharan

WEB COPY

ORDER

This Review Application has been filed in W.P.No.34151 of 2022 which was allowed by this Court by order, dated 05.06.2023, whereby, the proceedings of the first respondent, dated 12.11.2022 was set aside by this Court.

2. This Review Application has been filed mainly on the ground that as against the order passed by the first respondent under Section 54(1) of the Tamil Nadu Town and Country Planning Act, 1971, there is an alternative remedy available under Section 79 of the Act. Therefore, according to the review petitioners, the Writ Petition itself is not maintainable in view of the availability of an alternative remedy. On that ground, the petitioners have sought for reviewing the order passed in the Writ Petition.

3. The learned Counsel for the petitioners submitted that the availability of an alternative remedy was also raised by the petitioners in the counter-affidavit filed by them and the said issue was not considered by this Court. The learned Counsel also relied upon the Division Bench orders in



Rev.Aplw (Writ).No.107 of 2023

WEB COPY

W.P.No.20847 of 2019, dated 16.07.2019 and W.P.No.15442 of 2022, dated 02.08.2022, to substantiate his submission.

4. In the considered view of this Court, the review jurisdiction can be exercised only if there is an error apparent on the face of the order. In the instant case, inspite of the availability of an alternative remedy, the Writ Petition was entertained in the year 2022. That apart, this Court had gone into the very jurisdiction of the first respondent in passing the order in view of the fact that the respondents 4 and 5, instead of agitating the dispute before the Civil Court, were agitating the same before the first respondent. In short, the first respondent had gone into the right and title over the subject property and the same is beyond the jurisdiction of the first respondent. This Court has specifically stated at paragraph No.17 of the order that the first respondent had lacked power and jurisdiction to pass the impugned order, dated 12.11.2022.

5. The availability of an alternative remedy is only a self-imposed restriction. In this case, the Writ Petition was entertained in the year 2022 and this Court also found that the order passed by the first respondent



Rev.Aplw (Writ).No.107 of 2023

WEB COPY

lacked the power and jurisdiction. In view of the same, the availability of an alternative remedy will not come in the way of the writ petitioners to agitate their right by directly filing the Writ Petition before this Court.

6. In the light of the above discussion, this Court does not find any ground to review the order passed in W.P.No.34151 of 2022 and accordingly, this Review Application stands dismissed. No costs.

21.08.2023

Index : yes/no
Speaking order/Non-speaking order
Neutral Citation : yes/no
grs

To

1. The Director of Tamil Nadu Town and Country Planning,
No.807, Anna Salai,
Chennai - 600 002.
2. The Deputy Director of Town and Country Planning,
Chengalpattu Region,
No.124, Municipal Complex,
GST Road, Chengalpattu - 603 001.
3. The Sub-Registrar,
Chengalpattu,
Chengalpattu District.



WEB COPY



Rev.Aplw (Writ).No.107 of 2023



WEB COPY



Rev.Aplw (Writ).No.107 of 2023

N.ANAND VENKATESH, J.

grs

Review Application (Writ).No.107 of 2023

21.08.2023