



REV.APLW(MD)No.243 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 15.12.2023

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

REV.APLW(MD)No.243 of 2023
and
W.M.P.(MD)No.25024 of 2023

Sivaprakasam

... Petitioner

vs.

Ayyammal (Died)

- 1.Muthupandi
- 2.Nagendraperumal
- 3.Selvendran
- 4.Manimegalai
- 5.Parasakthi

6.The District Collector,
Madurai District.

7.The Revenue Divisional Officer,
Madurai District.

8.The Tahsildar,
Vadipatti Taluk Office,
Madurai District.

... Respondents

PRAYER: REVIEW APPLICATION filed under Order 47 Rules 1 and 2 and Section 114 of CPC r/w Article 226 of Constitution of India to set aside the order passed in W.P.(MD)No.20799 of 2014 on 20.04.2021 allowing the above Review Application.



REV.APLW(MD)No.243 of 2023

For Petitioner :Mr.V.S.Kishok Kumar
For R1 to R5 :Mr.V.Meenakshi Sundaram
for Mr.S.A.Ganapathy Raman
For R6 to R8 :Mr.A.K.Manikkam
Special Government Pleader

ORDER

This Review Application has been filed to review the order passed in W.P.(MD)No.20799 of 2014 dated 20.04.2021. For proper appreciation, the order passed in the Writ Petition is extracted hereunder:

“2.The case of the petitioner is that the subject property originally belonged to her husband and after his demise, the legal heirs become entitled to the property. The further case of the petitioner is that the Patta was wrongfully transferred in favour of one Oyyammal. The petitioner, therefore made an application for removal of the name of the said Oyyammal. The second respondent, through proceedings dated 08.10.2014, allowed the application and directed the third respondent to remove the name of Oyyammal and incorporate the name of the petitioner and the other legal heirs.

3.The grievance of the petitioner is that this order has not been implemented by the third respondent inspite of the representation made by the petitioner on 15.12.2014. Left with no other option, the present writ petition has been filed before this Court seeking for appropriate directions.

4.Heard Mr.R.Manoharan, learned counsel for the petitioner and Mr.K.P.Narayana Kumar, learned Special Government Pleader appearing for the respondents.

5.Taking into consideration the facts and circumstances of the case and the limited relief sought for in this Writ Petition, if the third respondent has not already implemented the order passed by the second respondent, there shall be a direction to the third respondent to act upon the representation made by the



REV.APLW(MD)No.243 of 2023

petitioner on 15.12.2014 in line with the order passed by the second respondent through proceedings dated 08.10.2014 and complete the process within a period of four(04) weeks from the date of receipt of a copy of this order.

6.The petitioner is directed to make a fresh representation to the third respondent along with all the relevant documents and a copy of this order.”

2.The Review Application has been filed mainly on the ground that the Writ Petitioner Ayyammal died on 05.09.2020 and whereas, final order was passed in the Writ Petition only on 20.04.2021. The other ground that has been raised by the petitioner is that the private respondents have played fraud by concealing material facts before this Court and therefore, fraud vitiates the entire order passed in the Writ Petition.

3.Heard Mr.V.S.Kishok Kumar, learned Counsel appearing on behalf of the petitioner, Mr.V.Meenakshi Sundaram, learned Counsel appearing on behalf of the respondents 1 to 5 and Mr.A.K.Manikkam, learned Special Government Pleader appearing on behalf of the respondents 6 to 8.



4.While dealing with this Review Application, this Court must only see if the order passed in the Writ Petition suffers from any error apparent on the face of the order. This Court in the guise of dealing with the Review Application cannot re-hear the matter and pass orders.

5.Insofar as the first ground that was raised by the petitioner, the law on this issue is now too well settled. When the Writ Petition was filed in the year 2014, the Writ Petitioner was alive and during the pendency of the Writ Petition, she seems to have expired on 05.09.2020. The final order was passed on 20.04.2021. Where an adverse order is passed against a dead person, such an order is considered to be a nullity in the eye of law. However, where a favourable order is passed in favour of a dead person, at the best, it can only be considered to be an irregularity and it is not a nullity in the eye of law. Therefore, since the order passed in the Writ Petition is in favour of the Writ Petitioner, it cannot be held as a nullity in the eye of law. On that ground, the order passed in the Writ Petition cannot be reviewed.

6.Insofar as the ground of fraud that has been raised by the Review



Petitioner, the learned Counsel for the petitioner submitted that the Writ Petitioner had concealed the earlier suit that was filed and which was dismissed. That apart, it was also submitted that the Review Petitioner is tracing his right and title from Oyyammal through a registered sale deed dated 13.07.1994. This Oyyammal had died in the year 2013 itself. However, the petitioner and others managed to file an application before the Revenue Divisional Officer, Madurai, by showing one Ramamoorthy, as respondent and this person was none other than the husband of one of the petitioners, namely, Manimegalai. The learned Counsel submitted that the said Ramamoorthy never contested the application and automatically, the Revenue Divisional Officer passed an order, dated 08.10.2014. The learned Counsel further submitted that the order itself has been obtained behind the back of the petitioner and it is a clear fraud played by the Writ Petitioner.

7.The learned Special Government Pleader appearing on behalf of the official respondents submitted that the order passed by this Court in the Writ Petition was complied with by the Tahsildar through proceedings, dated 27.08.2021 and the patta has been transferred in the



name of legal heirs of Ayyammal.

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8.In the considered view of this Court, the ground raised by the Review Petitioner cannot be gone into in this Review Application, since it will go beyond the scope of the Review Application. It is an admitted fact that the proceedings, dated 08.10.2014 has not been interfered with or set aside till date. Therefore, it has been acted upon by the Tahsildar. If according to the Review Petitioner, the proceedings of the Revenue Divisional Officer, dated 08.10.2014, is vitiated by fraud and the order has been obtained by concealing material facts, it will be more appropriate for the Review Petitioner to agitate this issue before the Revenue Divisional Officer. This Court is inclined to grant such liberty to the Review Petitioner. It will sufficiently take care of the grievance that was raised by the Review Petitioner.

9.In the light of the above discussion, liberty is granted to the Review Petitioner to submit a fresh application before the Revenue Divisional Officer, Madurai. The Review Petitioner is permitted to raise all the grounds before the Revenue Divisional Officer along with



REV.APLW(MD)No.243 of 2023

supporting documents. On receipt of the application, the Revenue Divisional Officer shall issue notice to the private respondents 1 to 5 in this Review Application. It is left open to the respondents 1 to 5 herein to raise all their grounds and final orders shall be passed on its own merits and in accordance with law within a period of six months from the date of receipt of the application from the Review Petitioner. It is made clear that the Revenue Divisional Officer will not be influenced by the proceedings, dated 08.10.2014, order passed in the Writ Petition in W.P. (MD)No.20799 of 2014, dated 20.04.2021 and the order passed in this Review Application. The Revenue Divisional Officer will apply his mind afresh and pass orders in accordance with law.

10.This Review Application is disposed of in the above terms. No costs. Consequently, connected miscellaneous petition is closed.

Index :Yes / No
Internet :Yes / No
NCC :Yes / No
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To

15.12.2023

1.The District Collector, Madurai District.



REV.APLW(MD)No.243 of 2023

2.The Revenue Divisional Officer, Madurai District.

3.The Tahsildar,
Vadipatti Taluk Office, Madurai District.

N.ANAND VENKATESH, J.

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REV.APLW(MD)No.243 of 2023



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REV.APLW(MD)No.243 of 2023

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