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Rev.Apln.(MD)Nos.33 & 36 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.03.2024

CORAM :

THE HON'BLE MR. JUSTICE S.S.SUNDAR
AND
THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

Review Application (MD) Nos.33 & 36 of 2016

1. The District Collector
Tuticorin District, Tuticorin
2. The Assistant Divisional Engineer
Highways Department
Srivaikundam, Tuticorin District
3. The Tahsildar
Srivaikundam, Tuticorin District
4. The Inspector of Police
Seithunganallur Police Station
Tuticorin District .. Review Applicants in
Rev.Apln.(MD) No.33 of 2016
- Nachiarammal .. Review Applicant in
W/o Nambi Konar Rev.Apln.(MD) No.36 of 2016
- v.
- Nachiarammal .. Respondent in Rev.Apln.(MD)
W/o Nambi Konar No.33 of 2016



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Seithunganallur Police Station
Tuticorin District

Respondents in
Rev.Apln.(MD)No.36 of 2016

Memorandum of Grounds of Review Applications filed under Order XLVII, Rule 1 read with Section 114 of the Civil Procedure Code to review the order dated 29.04.2016 in W.P.(MD)No.15959 of 2013.

For Review Applicants :: Mrs.V.Yamuna Devi
Special Government Pleader
in Rev.Apln.(MD) No.33/2016

Mr.T.Arul in Rev.Apln.(MD)
No.36/2016

For Respondents :: Mr.T.Arul in Rev.Apln.(MD)
No.33/2016

Mrs.V.Yamuna Devi
Special Government Pleader
in Rev.Apln.(MD)No.36/2016



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COMMON ORDER

(Order of the Court was made by S.S.SUNDAR,J.)

The review applicant in Review Application (MD) No.36 of 2016 is the writ petitioner in W.P.(MD)No.15959 of 2013. Accepting the case of the writ petitioner that she was unauthorisedly removed from the premises and that the building (seven shops) put up by the writ petitioner in her own patta property was demolished under the garb of removal of encroachment, this Court passed the following order:-

“21. For the reasons stated above, we direct the 2nd respondent to handover the site where the petitioner had put up 7 number of shops and direct the respondents to treat the petitioner's possession as lawful. However, the respondents are given liberty to approach the civil court to seek appropriate relief against the writ petitioner, including the relief for recovery of possession, if really the disputed site fall outside survey field S.F.No.696/1B in Serakulam Village, Srivaikundam Taluk and fall within S.F.No.2006 or any other survey field belong to the Government. Since determination of compensation under various heads involves disputed question of fact, the Writ Petitioner is also permitted to approach the civil Court for



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getting just compensation for the illegal demolition irrespective of her title over the disputed site where she had constructed the shops and which were demolished by the 2nd respondent. For this purpose, we hold that the demolition of shops constructed by petitioner is illegal.”

2. The conclusion reached by this Court in paragraph-21 is on the basis of specific findings on factual issues raised before this Court while disposing of the writ petition. The review applicant has preferred the Review Application (MD)No.36 of 2016 on the ground that this Court ought to have directed the respondents to pay compensation, instead of relegating the matter to the civil Court, as the petitioner is aged. Even though there is no dispute with regard to the illegal demolition of the building constructed by the writ petitioner, the petitioner has not indicated the cost of actual construction with reference to particulars in the affidavit filed in support of the writ petition. Therefore this Court, considering the fact that the respondents also should be put on notice before an assessment of the cost of construction, gave liberty to the writ petitioner to approach the civil Court. Therefore, this Court finds that there is no error apparent on the face of the



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3. However, the learned counsel appearing for the review applicant submitted that the review applicant in Review Application (MD) No.36 of 2016 has lost her only property by the illegal action of the official respondents. It is further stated that the writ petitioner's building was demolished and she was also deprived of her legitimate income from the building, which she was entitled to for all these years. It is also stated that the writ petitioner is unable to mobilize funds to pay the Court fee as her claim would be more than Rs.55 lakhs towards the cost of construction alone.

4. The Hon'ble Supreme Court and this Court have repeatedly held in several cases that the error apparent must be manifest in the order itself and it should not require a long drawn process of reasoning or the appreciation of evidence to detect an error. The distinction between a decision suffering from error apparent on the face of the record and an erroneous decision is explained in several judgments. This Court for reasons gave liberty to the



writ petitioner to approach the civil Court to seek compensation for the unauthorised demolition and loss of income. The review applicant has also raised an issue that the direction of this Court has not been complied with and the review applicant was not even handed over possession of the property. It may be on account of pendency of the Review Application (MD) No.33 of 2016, the respondents have not handed over the possession of the property in which the review applicant had constructed the row of shops. However, it is open to the writ petitioner to seek additional compensation for depriving the petitioner's right to get possession and to exploit the building for commercial purpose as directed by this Court. Though the review applicant in Review Application (MD)No.36 of 2016 has raised several grounds questioning the reasoning and the propriety of the order, this Court is unable to find any ground to entertain the review application. On proper consideration of all the documents and revenue records, this Court has consciously passed the order in the writ petition. Therefore, Review Application (MD)No.36 of 2016 is liable to be dismissed.

5. Review Application (MD)No.33 of 2016 preferred by the State is



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also liable to be dismissed for the same reason which we have assigned to dismiss the Review Application (MD)No.36 of 2016. Taking into consideration the economic background of writ petitioner and overall circumstances, this Court directs the respondents in Review Application (MD) No.36 of 2016, who are the review applicants in Review Application (MD)No.33 of 2016, to pay an interim compensation of Rs.10 lakhs to the review applicant in Review Application (MD)No.36 of 2016/writ petitioner within a period of six weeks from the date of receipt of a copy of this order. Any amount paid by way of compensation will be adjustable and this amount will be deducted from the sum that may be adjudged by the civil Court in the suit that will be filed by the writ petitioner as directed by this Court in the writ petition as well as in these review applications.

6. With the above observation, both the review applications are dismissed. Consequently, W.M.P.(MD)Nos.9933 & 12999 of 2016 are also dismissed. No costs.

Index : yes/no
Neutral citation : yes/no
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To

(S.S.S.R.,J.) (N.S.,J.)
18.03.2024



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