



Review Application No. 178 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 18.10.2024

DELIVERED ON: 12.11.2024

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

and

THE HON'BLE MR.JUSTICE P.B. BALAJI

Review Application No. 178 of 2023

in

W.A.No. 657 of 2016

and CMP.No. 22718 of 2023

P.Lingan

.. Applicant

Vs

1.The Chairman,
Tamil Nadu Housing Board,
Nandanam, Chennai-600005.

2.The Special Tahsildar (Land Acquisition)
Tamil Nadu Housing Board,
Nandanam, Chennai-600005.



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3.The Executive Engineer,
Tamil Nadu Housing Board ,
K.K.Nagar, Chennai-600078.

4.The Tahsildar,
GST Road, Kadapperi,
Tambaram-600045.

..Respondents

Prayer: Review Application is filed under Order XLVII Rule 1 Read with Section 114 of CPC to review the order passed by this Court in W.A.No. 657 of 2016, dated 26.07.2023.

For Applicant : Mr V.Ramesh

For Mr.T.Thiyagarajan

For Respondent : Mrs. V.Yamunadevi, Spl.G.P – R2 & R4

Dr.N.Moorthi, Standing Counsel – R1 & R3

J U D G M E N T

(Order of the Court was made by Justice D.Krishnakumar)

This review application is directed against the order passed by this Court in W.A.No. 657 of 2016, dated 26.07.2023.



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2. The grounds raised in the review application is that the scheme of developing housing colony has been completely fractured and made impossible for fulfilment and therefore, the Division Bench ought not to have dismissed the writ appeal. Further, the coordinate Bench of this Court with regard to same scheme has accepted the offer made by the land owner to pay compensation of Rs.2,100/- per square feet, therefore the similar treatment ought to have been extended to the applicant herein. The applicant has also raised a ground that his request for providing alternative land was rejected without providing personal hearing.

3. Heard Mr.V.Ramesh, learned counsel appearing for the review applicant and Mrs.V.Yamunadevi, learned Special Government Pleader appearing for the respondents 2 to 4 and Dr.N.Moorthi, learned standing counsel appearing for the respondents 1 &3 and perused the materials available on record.



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4. The scope of review is limited as per the provisions of Order 47 Rule 1 CPC, where this Court can review the judgment or order only when there is error apparent on the face of the record. Only when an error is apparent or manifest by looking at the order, the Court can review a judgment. Even if an error is required to be detected by a process of reasoning, there is no scope of review to entertain a review application under Order 47 Rule 1 CPC. Even if it is erroneous, the decision can be challenged only before the Appellate Court.

5. In this context, the Hon'ble Supreme Court in the case of ***Perry Kansagra v. Smriti Madan Kansagra [(2019) 20 SCC 753]***, has elaborately considered the scope of review and has summarised the propositions as reiterated by the Hon'ble Supreme Court and High Court in the following lines:

“15.The law on the subject—exercise of power of review, as propounded by the Apex Court and various other High Courts may be summarised as hereunder:

(i) Review proceedings are not by way of appeal and have to be strictly confined to the scope and ambit of Order 47 Rule 1 CPC.



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(ii) Power of review may be exercised when some mistake or error apparent on the fact of record is found. But error on the face of record must be such an error which must strike one on mere looking at the (2000) 6 SCC 224 Perry Kansagra vs. Smriti Madan Kansagra record and would not require any long-drawn process of reasoning on the points where there may conceivably be two opinions.

(iii) Power of review may not be exercised on the ground that the decision was erroneous on merits.

(iv) Power of review can also be exercised for any sufficient reason which is wide enough to include a misconception of fact or law by a court or even an advocate.

(v) An application for review may be necessitated by way of invoking the doctrine actus curiae neminem gravabit."

6. This Court has taken a decision consciously by recording the statement of the appellant/applicant herein that he is only a subsequent purchaser and after purchase, he had put up construction by obtaining planning permission and residing there and in view of the same, he also expressed his willingness to alternatively handover 14 cents out of 38 $\frac{3}{4}$ cents in Old No.131, New No.104, Pulikoradu Village, Patta No.615, Nanjai S.No.22/2b, Tambaram Taluk, Kanchipuram District and also sent a letter to the respondent Board to exchange the land. The said fact was recorded by the Division Bench in the earlier orders dated 09.01.2023 and 13.04.2023.



Based on the said undertaking given by the applicant herein for exchange of land, the third respondent inspected the alternative site and it was found that it was not a fit place for exchange and there had been Veeranam Pipeline of the Government, running across the land and the said lands is in water logged area near the highway in a low lying area and therefore, the respondent Board declined to accept the exchange of land offered by the appellant, vide communication dated 19.06.2023.

7. This Court also conciously considered that fact that the Land Acquisition Officer took possession of the land and handed it over to the respondent Board on 21.10.1996. The compensation amount was deposited on 11.05.1990, and the land in question now vests with the respondent Board. Furthermore, relying on the decisions of the Hon'ble Supreme Court in (1) *Indore Development Authority Vs. Manoharlal and Others reported in ([2020] 8 SCC 129) AND (2). V. Chandrasekaran and Others vs. The Administrative Officer and Others, reported in MANU/SC/0751/2012*, this Court held that the appellant/applicant, being a subsequent purchaser, is not entitled to challenge the land acquisition



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proceedings, and accordingly dismissed the writ appeal, upholding the order passed by the writ court.

8. With regard to the other ground raised by the review applicant to grant relief as extended by the coordinate Bench of this Court in similar case, the said ground cannot be considered in the review application in the light of the decision of the Hon'ble Supreme Court cited supra.

9. In view of the above, there is no mistake or error apparent on the facts of record, therefore as per the observations made in the decision of the Hon'ble Supreme Court in *Perry Kansagra* case cited supra, this Court is not inclined to entertain the review application and accordingly the Review Applications stands dismissed. No costs. Consequently, connected miscellaneous petitions is closed. It is open to the review applicant to seek remedy before the authorities concerned, if it is permissible under law.

(D.K.K., J.) (P.B.B. J.,)

12.11.2024

Internet: Yes

Index : Yes

Speaking Order/Non Speaking order
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