



Review Application No.175 of 2019 etc. batch

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date of Reserving the Order	Date of Pronouncing the Order
13.11.2024	19.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

Review Application Nos.175, 176, 177, 178, 179, 180, 181, 182, 183 & 184 of 2019

and

C.M.P.Nos.18907, 18908, 18909, 18910, 18913, 18914, 18915, 18916, 18917, 18921, 18944, 18945, 18946, 18947, 18948, 18949, 18951, 18952, 18953 & 18955 of 2021

in

Second Appeal Nos.520, 521, 522, 523, 524, 525, 526, 527, 528, 529 of 2019

Rev.Apl.(C) No.175 of 2019:

The Pollachi Co-operative House
Construction Society Ltd.,
No.K.1579
rep.by Secretary R.Duraisamy
No.16, Kamaraj Road
Mahalingapuram
Pollachi-642 002

... Applicant

-VS-

1.Pollachi Municipality
rep.by its Commissioner
Pollachi



Review Application No.175 of 2019 etc. batch

WEB COPY

2.Pollachi Co-operative House
Building Society
rep.by its Secretary
Pollachi

... Respondents

Review Application filed under Order XLVII, Rule 1 and Section 114 of the Code of Civil Procedure to review the Judgment dated 01.11.2001 made in S.A.No.523 of 1998.

For Petitioner : Mr.R.Singaravelan
Senior Counsel
for Ms.V.Ambika

For Respondents : Mr.B.Anand for R1

COMMON ORDER

On 23.08.2019, while admitting the revision applications, this Court has passed the following order:

“All the Review applications have been filed against the judgment and decree dated 01.11.2001 passed in S.A.Nos. 520 to 529 of 1998 on the ground that these second appeals have been filed against the Society without making them as a party. Since they are plaintiff co-operative, filed by the society challenging the levy and demand of property tax payable by the said society.



WEB COPY

Review Application No.175 of 2019 etc. batch

2.The Civil Suit in O.S.Nos.275 to 284 of 1990 was filed challenging the demand of property tax levied by the Pollachi Municipality. The suit was dismissed and then the appeal was allowed. Aggrieved by the Judgment and Decree passed by the Appellate Court, the Pollachi Municipality has filed the above Second Appeals. Anticipating such move the present petitioners have also entered caveat by properly mentioning the name of the Society as Pollachi Co-operative House Construction Society. However, it appears that the Pollachi Municipality has preferred the Second Appeals by literally translating the name of the Society as Pollachi Co-operative House Building Society Limited and resultantly it appears that notices have been served to the said named Society since there existed a Society with that name at Thanthai Periyar Malligai, Venkatesan Colony at Pollachi, instead of furnishing the correct address of the society, plaintiff at No.16, Kamaraj Road, Mahalingapuram, Pollachi.

3.The learned Senior Counsel Mr.B.Singaravelan has drawn my attention to the address of these petitioners, who are the plaintiffs in the suit and whose address is noted above. It appears that in view of such mistaken identity, the Society was not made as a party to the suit and they could not contest the case. It appears that based upon the submissions made by the learned counsel for the Pollachi Municipality all the Second Appeals appears to



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Review Application No.175 of 2019 etc. batch

have been allowed. Consequently thereof, the Pollachi Municipality appears to have taken further proceedings for recovery of the property tax and which is challenged by way Writ Petition. The learned Senior Counsel for the petitioner could submit that only at that time they come to know about the admission and disposal of the Second Appeal. Since no notice or summon was served upon the petitioner herein, who are respondent / plaintiff in the above Second Appeals they have filed this second appeal apart from preferring the Writ Petition in W.P.No.2639 of 2013 before this Court challenging the subsequent action taken by the Municipality.

4.

5.Taking note of the fact that the Pollachi Co-operative Housing Construction Society Ltd, No.1579, No.16, Kamaraj Road, Mahalingapuram, Pollachi - 642 002, filed O.S.Nos.275 to 284 of 1990 before the District Munsif Court, Pollachi, challenging the revision of property tax on the grounds mentioned therein, it appears that the suits have been dismissed on 06.06.1994.

6.Aggrieved by the said Judgment and decree, the society has preferred A.S.Nos.78 to 84 and 89 to 91 of 1994 before the Sub-Court, Udumalaipet and those appeals are allowed on 13.01.1995. It appears that as per



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Review Application No.175 of 2019 etc. batch

the submission of the review applicant, they also entered a Caveat petition before this Court. However as noted above, when the second appeals have been filed by the Pollachi Municipality, the name of the Municipality was indicated by literally translating the name of the appellant from Tamil to English, whereby the second respondent in the above second appeals was shown as the Pollachi Co-operative House Construction Society Ltd., without registration number viz., K1579, despite the fact that the actual respondent/plaintiff, ought to have been referred as Co-operative Society construction limited No.K1579.

7.It appears that as per the records available in the Appeal Suit notice section, High Court of Madras, the summons in connection with the second appeals were served upon to the Pollachi Co-operative Town Building Society Ltd., which is situated at Thanthai Periyar Maligai, Venkatesan Colony, Pollachi instead of the correct address given in the plaint and other documents i.e., the Pollachi Co-operative House Construction Society Ltd., Pollachi – 2.

8.From the summons served in the second appeal in S.A.No.520 of 1998, it is seen that in view of the incorrect translation with regard to the word 'House building' instead of 'House constructions' it appears that the existing society in that name in different address as noted above was served. Hence, for obvious reasons the



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Review Application No.175 of 2019 etc. batch

society that was served notice in the second appeal is not choosen to appear before this Court to contest the second appeal. This resulted in passing exparte judgment pronounced by this Court on 01.11.2001.

9.Taking note of the above fact I am of the considered view that the prima facie the party viz., review petitioner/plaintiff was not made as a party to the second appeals at that time of adjudication against the Judgment and decree granted in the appeal suits, as mentioned above.”

2. The main grievance of review applicant is that the name of K1579, Pollachi Co-operative Housing Construction Society Limited was not mentioned in the second appeals and in view of the said fact that the said Society could not represent before the Court in the second appeals. Further, the said Society had also filed caveat petitions even before numbering of the second appeals. Since the name of the review applicant – Society was not reflected in the cause title, the learned counsel engaged by the review applicant – Society was unable to present before the Court. Hence, a common Judgment has been passed without hearing the review applicant - Society, who is the plaintiff in the suits. The learned Senior Counsel would further



Review Application No.175 of 2019 etc. batch

contend that the subject matter of the case on hand is with regard to revision of property tax for various financial years numbering to 10.

3. Mr.B.Anand, learned Standing Counsel for the respondent – Municipality would contend that the name as mentioned in the first appeals has been mentioned in the second appeals and the common Judgment has been passed in the second appeals on merits and therefore, there is no point for review. He would further contend that there is an alternative statutory remedy available for the review applicant – Society and hence the civil suits are exclusively barred.

4. Heard Mr.R.Singavelan, learned Senior Counsel, assisted by Ms.V.Ambika, learned counsel on record for the review applicant - Society and Mr.B.Anand, learned counsel appearing for the respondent – Municipality.

5. After going through the typed set of papers filed on behalf of the review applicant - Society, I find that notice has been served upon a wrong person in the second appeals. It is to be stated that the plaintiff in the suits is “the Pollachi Co-operative House Construction Society Limited, K.No.1579, rep.by its Secretary”. The suits were filed by the said Society against the



Review Application No.175 of 2019 etc. batch

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respondent – Corporation against revision of property tax. For each year, there is one suit. All of them were taken up together and were dismissed. The first appeals were allowed in favour of the plaintiff – Society and hence, the respondent - Municipality appears to have preferred the second appeals.

6. On perusal of the cause title of the suits as well as the first appeals, I find that the name of the plaintiff – Society has been wrongly typed in the cause title of the second appeals. It appears that as per the letter circulated, notice appears to have been served on Pollachi Co-operative House Building Society, but not the original plaintiff, namely, Pollachi Co-operative House Construction Society, besides the registered number i.e. K.1579 is also found missing. Therefore, I find that the second appeals itself are filed against a wrong entity, which resulted in filing of the present review applications. In fact, the present review applicant – Society has also entered caveat much before the second appeals being numbered and admitted and hence, I find that the review applicant – Society, who is the third party is to be impleaded as a party respondent in the second appeals, since the review applicant – Society is the original plaintiff in the suits. The factum that the decree passed in the second appeals cannot be executed against the original plaintiff, since in the second appeals, the name of the Society has been wrongly typed,



Review Application No.175 of 2019 etc. batch

besides there exists another Society in the wrongly typed name, assumes significance and hence, I am inclined to allow the present review applications:

7. In the result,

- (i) The review application Nos.175, 176, 177, 178, 179, 180, 181, 182, 183 & 184 of 2019 are allowed.
- (ii) The common judgment and decree dated 01.11.2001, passed in S.A.Nos.520, 521, 522, 523, 524, 525, 526, 527, 528, 529 of 2019, is hereby set aside.
- (iii) The findings rendered therein also hereby stand vacated.
- (iv) The respondent – Pollachi Municipality, who suffered decree before the Sub Court, Udumalpet, is hereby required to file applications for amendment of the cause title in the above second appeals.
- (v) On filing such applications, Registry is directed to post those applications for amendment of the



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Review Application No.175 of 2019 etc. batch

cause title in the above second appeals before the roster Court for disposal of the same in accordance with law.

(vi) No costs. Consequently, connected miscellaneous petitions are closed.

19.11.2024

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

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To:
The Section Officer,
VR Section,
Madras High Court,
Madurai.



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Review Application No.175 of 2019 etc. batch

RMT.TEEKAA RAMAN, J.

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PRE-DELIVERY COMMON ORDER

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