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Review Application Writ (MD) No.12 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.06.2024

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE MR. JUSTICE V.LAKSHMINARAYANAN

Review Application Writ (MD) No.12 of 2024
and
W.M.P.(MD) No.1949 of 2024

M.Muthuraman

... Review Applicant/3rd Respondent

Vs.

1.K.S.Beevi Nurrani

... 1st Respondent/writ petitioner

2.The Member Secretary,
Local Planning Authority,
Madurai.

3.The Commissioner,
Madurai Corporation,
Madurai.

4.M.Pakkiam

... Respondents 2 to 4/Respondents 1, 2 & 4.

Prayer :- Review Application filed under Order XLVII Rule 1 & 2 read with Section 114 of C.P.C., praying to review the judgment and decree passed in W.P.(MD) No.14871 of 2011, dated 13.12.2023 by allowing the above review application.



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For Petitioner : Mr. R.Saravanan, Senior Counsel
for Mr.S.Ramsundarvijayraj

For Respondents : Mr.S.Sitharthan (for R1)
Mr.K.K.Kannan, Senior Counsel for R3

ORDER

(Order of the Court was delivered by V.LAKSHMINARAYANAN, J.)

The review petitioner seeks to review the order passed on 13.12.2023, in W.P.(MD) No.14871 of 2011.

2.By that order, we quashed the illegal order passed by the second respondent, namely, the Commissioner of Madurai Corporation, granting permission for a multi storeyed building. We specifically found in paragraph No.15 of the said order that the power was available only with the Director of Town and Country Planning and not with the Commissioner of Madurai Corporation.

3.During the course of the arguments in the writ petition, the learned counsel, who appeared for the first respondent had submitted that the seal of the first respondent had been forged by the second respondent and we entered a positive finding on the act of forgery also.



4.Both on the ground of jurisdiction as well as on the ground of forgery of the seal of the first respondent, we quashed the proceedings.

5.After disposal of the writ petition, a new counsel has been engaged and this review has been filed, whereunder, the points already agitated on merits by the erstwhile counsel were sought to be reagitated by the learned Senior Counsel Mr.R.Saravanan, Senior Counsel appearing for Mr.S.Ramsundarvijayraj.

6.The Hon'ble Supreme Court has made it clear that the filing of review through a fresh counsel would be inappropriate as it could not send the right message to the litigants.

7.Apart from that, even on merits, we find that these are the points to be agitated before the Supreme Court by way of a Special Leave Petition. A review is not an appeal in disguise. We have found that there was no jurisdiction for the second respondent and quashed the planning permission. If the planning permission is quashed, consequently, the entire building is an illegal one. We have also specifically entered a finding to that effect in paragraph Nos.34 and 40. We have only applied



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the judgments laid down by the Supreme Court in order to arrive at a conclusion that an unauthorized construction cannot be continued to stand cocking a snook at the law. We do not find any error apparent on the face of the records. Hence, this review is dismissed.

8.We find that taking advantage of the pendency of the review, the second and third respondents have not initiated any action for demolition of the building. Consequently, since we have dismissed the review, there shall be a direction to the second and third respondents to take immediate steps to demolish the unauthorized constructions within a period of two months and report compliance to this Court.

9.Accordingly, the review application is dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition also stands dismissed. Post the matter on 16.08.2024 for reporting compliance.

(S.M.S.,J.)

(V.L.N.,J.)

14.06.2024

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Index : Yes/No

Internet: Yes/No

Speaking order/Non-Speaking order

Neutral Citation : Yes/No



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To

1.The Member Secretary,
Local Planning Authority,
Madurai.

2.The Commissioner,
Madurai Corporation, Madurai.



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and

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