



Rev.A.(MD)179 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

AND

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

Review Application Writ(MD) No.179 of 2023

1. The Secretary to Government, Finance Department
Chennai-9
2. The Secretary to Government, Municipal Administration
and Water Supply Department, Chennai-9
3. The Secretary to Government, Revenue Department
Chennai-9
4. The Principal Secretary and Commissioner of Revenue
Administration, Disaster Administration and Mitigation
Chennai-5
5. The Principal Secretary and Commissioner of Land
Administration, Chennai-5
6. The Directorate of Town Panchayat, Chennai-108
7. The District Collector, Sivagangai District
8. The Assistant Director, Sivagangai Zone,
Directorate of Town Panchayat, Sivagangai
9. The District Revenue Officer, Sivangangai



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10.The Revenue Divisional Officer, Sivagangai

11.The Tahsildar, Illaingudi Taluk, Sivagangai

12.The Executive Officer, Illaingudi Town Panchayat
Sivagangai

Applicants

Vs

1. K.M.Sahul Hameed
2. E.Alagar, Executive Officer, Kayatharu Town Panchayat
Thuthukudi
3. Ayup Ali Khan, Former President, Ward No.15,
Ilayangudi Town Panchayat, Ilayangudi 630702
4. K.M.Abdul Wahid, Former Vice President and Foemer Councillor
Ilayangudi 630702
5. R.Thahira Banu, Former Councillor, Ward No.1, Pudur,
Ilayangudi 630 709
6. A.Al Ibrahim Sha, Former Councillor, Ward No.2, Pudur,
Ilayangudi 630709
7. K.E.Nizam Khan, Former Councillor, Ward No.3, Pudur,
Ilayangudi 630709
8. M.Yogeshwari, Former Councillor, Ward No.4,
Pagaivaravendran Village, Ilayangudi 630702
9. L.Munniyandi, Former Councillor, Ward No.5,
Salaiyur, Ilayangudi 630702
- 10.A.Ahamed Ali, Former Councillor, Ward No.6,
Salaiyur, Ilayangudi 630702
- 11.P.K.M.Hameed Dawood, Former Councillor,



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Ward No.8, Ilayangudi 630702

12.S.Gopi, Former Councillor, Ward No.9, Ilayangudi 630702

13.U.Mohameed Abdulla, Former Councillor,
Ward No.10, Ilayangudi 630702

14.K.K.S.Karijathul Kubra, Former Councillor,
Ward No.11, Ilayangudi 630702

15.Ka.Sirajudeen, Former Councillor, Ward No.12,
Ilayangudi 630702

16.M.Lakshmi, Former Councillor, Ward No.13,
Ilayangudi 630702

17.A.Mehqup Nisha, Former Councillor, Ward No.14,
Ilayangudi 630702

18.K.M.Ahamed Jalaludeen, Former Councillor,
Ward No.16, Ilayangudi 630702

19.A.Pattai Surat Beevi alias Surai Beevi, Ward No.17,
Former Councillor, Ilayangudi 630702

20.M.Anwar Sathath, Former Councillor, Ward No.18,
Ilayangudi 630702,

21.R.M.Periyaiah, Pallathur, Karaikudi, Sivagangai District

22.The Chairman, Tamil Nadu State Finance Commission, Chennai-35

23.The Local Body Ombudsman, Chennai-32 Respondents

Prayer:- This Review Application has been filed to review the order of this Court, dated 24.08.2022, made in WP(MD)No.7400 of 2017.

For Petitioners : Mr.Veera Kathiravan, AAG



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For Respondents : Mr.Abhinav Parthasarathy-R1

ORDER

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

1. This review application has been filed, by the Tamil Nadu State Government, to review the order, dated 24.08.2022, made in WP(MD)No.7400 of 2017.
2. This Court heard the learned Additional Advocate General and the learned counsel for the 1st Respondent.
3. The prayer in the said Writ Petition filed by the 1st Respondent herein was for issuance of a Writ of Mandamus, directing the Official Respondents therein to remove the encroachments in Urani, comprised in S.No.11, claimed to have been sub divided into S.No.11/1 and 11/2, North Ilayangudi Village, Sivagangai District to an extent of 5.95.0 hectares. By the order made in the Writ Petition, the Tahsildar concerned was directed to remove the alleged encroachment.
4. This review application is filed on the ground that the entire land in S.No.11 in Ilayangudi Village is not a water body. The learned Additional Advocate General appearing for the Respondents has produced a copy of the extract of the revenue records to show that the



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S.No.11 has been classified as S.No.11/1 and 11/2. It was the case of the Executive Officer before this Court in the counter affidavit filed in the Writ Petition. However, this Court, after placing reliance on the decision of the Full Bench of this Court reported in **2015 5 LW 397 (T.K.Shanmugam Vs. State of Tamil Nadu)** and following the judgement of the Division Bench reported in **2010 3 MLJ 771 (T.S.Senthilkumar Vs. Government of Tamil Nadu)**, has allowed the above Writ Petition with a direction to the concerned Tahsildar to remove the encroachment in the water body after issuing a show cause notice and following the procedure, in accordance with law.

5. The submission of the learned Additional Advocate General that a portion of the property in S.No.11/2 is classified as “Mayana Pathai” cannot be accepted, since the Full Bench of this Court, in its decision cited supra, has, after elaborately discussing the public Trust doctrine, held that merely because the water body vest with the Government, the Government is not the owner of the water body and that the Government is expected to maintain the same for the benefit of the public and keep the property as a water body for the benefit of the public. It is to be noted that the reclassification of the land originally



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classified as a communal property is permissible only under Section 20A of the Tamil Nadu Estates Land Act, 1908. After the repeal of the Tamil Nadu Estates Land Act, 1908 by enacting the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948 (Act 26 of 1948), there is no statutory power available to any of the Revenue Officials or Government to reclassify the land once it is registered as a tank. In this case, in fact till 2008, the revenue records show that the entire extent of S.No.11 is registered in the revenue records as a Urani. Therefore, the contention of the Review Applicant that the impugned order is liable to be reviewed, for the same being without taking note of the revenue records and classification of the land, cannot be countenanced.

6. In this review application, the Applicant has come forward with the same story that was pleaded by them in the Writ Petition. A Review is not an appeal in disguise, as has been, time and again, held by several judgements of this Court. The Court can exercise its power of review only when there is an error apparent on the face of record and even an error, which is not apparent on the face of the record, but has to be detected by a process of reasoning cannot be a ground for review. Any ground, which does not fall under Order 47 Rule 1 of CPC, cannot be considered in a review application. Therefore, this Court finds no



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ground within the scope of Order 47 Rule 1 of CPC or merit in this
Review Application.

7. In fine, this review application is dismissed, as devoid of merits. No
costs.

(S.S.S.R.J.) & (S.S.Y.J.)
15.04.2024

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