



Rev Apl W(MD)No.164 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 03.09.2024

CORAM:

THE HON'BLE MR.JUSTICE B.PUGALENDHI

Rev Apl W(MD)No.164 of 2024

in

W.P(MD)No.18632 of 2023

and

W.M.P(MD)Nos.17567 and 17569 of 2024

Subramaniam

...Petitioner

Vs.

1.RM.Murugappan

2.KR.Rajendran

3.RM.Rajasekar

4.The District Collector,
Pudukottai District,
Pudukottai.

5.The Revenue Divisional Officer,
Pudukottai District,
Pudukottai.



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6.The Joint Commissioner,
Hindu Religious and Endowments Department,
Thanjavur.

7.The Assistant Commissioner,
Hindu Religious and Endowments Department,
Thanjavur.

8.The Deputy Superintendent of Police,
Ponnamaravathy,
Pudukottai District.

9.Neelamegam

...Respondents

PRAYER: Review Application is filed under Section 114 and Order 47 Rule 1 of C.P.C. against the order passed by this Court in W.P(MD)No. 18632 of 2023, dated 28.03.2024.

For Petitioner : Mr.K.Baala Sundaram
Senior Counsel
For M/s.KBS Law Office

For R1 to R3 : Mr.V.R.Shanmuganathan

For R4 to R7 : Mr.G.V.Vairam Santhosh
Government Advocate

For R8 : Mr.B.Thanga Aravindh
Government Advocate (Crl.Side)

ORDER

This application is filed as against the order passed by this Court in
W.P (MD)No.18632 of 2023.



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2.The learned Senior Counsel appearing for the review petitioner submits that the writ petition was disposed without hearing the petitioner/sixth respondent in the writ petition and without considering the civil suit, which is already pending between the two villages in O.S.No.112 of 2022, on the file of the Additional District Judge, Pudukottai. The learned Senior Counsel by referring the earlier orders of this Court passed in W.P(MD)No.18632 of 2023, dated 09.08.2023, submits that when this application was taken up for hearing on 09.08.2023, a representation was made on behalf of the sixth respondent that he has withdrawn the memo of appearance in the writ petition and the same was also recorded by this Court. The Registry was also directed to issue notice to the fifth and sixth respondents and the case was adjourned to 21.08.2023. However on 28.03.2024, when the writ petition was again listed for hearing, the case was decided and Mr.P.Mahendran, learned counsel, who entered appearance in the writ petition for the sixth respondent has appeared for the sixth respondent. The learned Counsel Mr.P.Mahendran has already withdrawn vakalat as per the earlier orders of this Court, which was also accepted by this Court. While so, this writ petition was decided without



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hearing the sixth respondent. The learned Senior Counsel has also pointed out since there was no proper representation for the sixth respondent, the pendency of the civil suit has not been projected before this Court while disposing the writ petition in W.P(MD)No.18632 of 2023.

3.Before venturing into any discussion on the rival contentions, this Court may point out that the power of Courts in matters of review is very limited. Such power can be exercised only when there is an error apparent on the face of the record and in that event if an order is not reviewed, it would amount to miscarriage of justice. For the said proposition, this Court may usefully refer to the Judgment of a Division Bench of this Court, in ***Union of India, Rep. by the Senior Divisional Commercial Manager, Chennai, Vs. The Registrar, Central Administrative Tribunal, Madras Bench***, reported in ***CDJ 2014 MHC 241***, wherein the Division Bench has made a complete survey of several Judgments of the Supreme Court, on this question, and has ultimately, in Paragraph No.10, held as follows:-

"10. In yet another Judgment reported in 2013 (8) SCC 320, [Kamlesh Verma Vs. Mayawati and others], the Hon'ble Apex Court, after examining various Judgments passed earlier has held as follows:



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"12. This Court has repeatedly held in various Judgments that the jurisdiction and scope of review is not that of an appeal and it can be entertained only there is an error apparent on the face of record. A mere repetition through different counsel, of old and overruled arguments, a second trip over ineffectually covered grounds or minor mistakes of inconsequential import are obviously insufficient....."

In the above Judgment, the Hon'ble Apex Court has laid down the principles as under:

"19. Review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of Order XL VII Rule 1 of CPC. In review jurisdiction, mere disagreement with the view of the Judgment cannot be the ground for invoking the same. As long as the point is already dealt with and answered, the parties are not entitled to challenge the impugned Judgment in the guise that an alternative view is possible under the review jurisdiction.

Summary of the principles:

20. Thus, in view of the above, the following grounds of review are maintainable, as stipulated by the statute:

20.1 When the review will be maintainable:-

(i). Discovery of new and important matter or evidence which, after the exercise of due diligence, was not



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within knowledge of the petitioner or could not be produced by him;

(ii). Mistake or error apparent on the face of record;

(iii). Any other sufficient reason.

*The words 'any other sufficient reason' has been interpreted in **Chhajju Ram Vs. Neki, AIR 1922 PC 112** and approved by this Court in **Moran Mar Basselios Catholicos Vs. Most Rev.Mar Poulose Athanasius & others [1955] 1 SCR 520**, to mean, "a reason sufficient on grounds at least analogous to those specified in the rule". The same principles have been reiterated in **Union of India Vs. Sandur Manganese & Iron Ores Ltd., ors., JT (2013) 8 SC 275**.*

20.2. When the review will not be maintainable:-

(i) A repetition of old and overruled argument is not enough to reopen concluded adjudications.

(ii). Minor mistakes of inconsequential import.

(iii). Review proceedings cannot be equated with the original hearing of the case.

(iv). Review is not maintainable, unless the material error, manifest on the face of the order, undermine its soundness or results in miscarriage of justice.

(v). A review is by no means an appeal in disguise whereby an erroneous decision is re-heard and corrected but lies only for patent error.



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(vi). *The mere possibility of two views on the subject cannot be a ground for review.*

(vii). *The error apparent on the face of the record should not be an error which has to be fished out and searched.*

(viii). *The appreciation of evidence on record is fully within the domain of the appellate Court, it cannot be permitted to be advanced in the review petition.*

(ix). *Review is not maintainable when the same relief sought at the time of arguing the main matter had been negatived."*

4.Mr.V.R.Sanmuganathan, learned Counsel appearing for the respondents 1 to 3 submits that the writ petition was decided only after hearing the submissions made on behalf of the sixth respondent. However, he is not aware whether it was made by some other Counsel. He also submits that the writ petition has not been disposed of on a single day, it has been heard for twice and there was a representation for the sixth respondent in both the hearings. The learned Counsel has also pointed out the paragraph No.3 of the earlier order, wherein, the submission of the sixth respondent has been recorded. Therefore, according to the learned Counsel for the respondents 1 to 3, the sixth respondent has made his



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submissions through a Counsel. However, it is not through Mr.P.Mahendran.

5.This Court has considered the rival submissions made and also inclined to conduct an enquiry with regard to the representation which was made on behalf of the sixth respondent in the writ petition by issuing notice to Mr.P.Mahendran, learned Counsel.

6.The learned Senior Counsel appearing for the review petitioner submits that no enquiry is required, however the fact that the suit pending between the parties can be appraised in this review application by issuing a direction to the trial Court to dispose of the suit in O.S.No.112 of 2022, on the file of the Additional District Judge, Pudukottai, within a stipulated time.

7.Considering this submission made by the learned Senior Counsel, this review application is disposed of. No costs. The Additional District Judge, Pudukottai, is directed to dispose of the suit in O.S.No.112 of 2022 as expeditiously as possible preferably, within a period of six months from



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the date of receipt of a copy of this order, uninfluenced by the observations
if any made in W.P(MD)No.18632 of 2023, dated 28.03.2024.

Consequently, the connected miscellaneous petitions are closed.

03.09.2024

Index : yes / No
Internet : yes / No
LR
To

1.The District Collector,
Pudukottai District,
Pudukottai.

2.The Revenue Divisional Officer,
Pudukottai District,
Pudukottai.

3.The Joint Commissioner,
Hindu Religious and Endowments Department,
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Copy to

The Additional District Judge,
Pudukottai.



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B.PUGALENDHI, J.

LR

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