



Rev Apl W(MD)No.134 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 19.07.2024

CORAM:

THE HON'BLE MR.JUSTICE B.PUGALENDHI

Rev Apl W(MD)No.134 of 2024

in

W.P(MD)No.13918 of 2024

E.Shanmugam

...Petitioner

Vs.

1.The Inspector of Police,
Ottanchatram Police Station,
Dindigul District,
Dindigul.

2.P.Ayyanar

...Respondents

PRAYER: Review Application is filed under Section 114 and Order 47 Rule 1 of C.P.C. to review the order passed by this Court in W.P(MD)No. 13918 of 2024, dated 28.06.2024 on the file of this Court and to consider the prayer of the petitioner, not to harass the petitioner, his pangalis and allied 21 swamis and for smooth performance of Alagupatti Pankali Kulatheivam Ayyanar and Twenty one Swamis Temple Festival from 19.07.2024 to 21.07.2024 at Alagupatti Village, Pallar Theru, Dindigul



Rev Apl W(MD)No.134 of 2024

West Taluk, Dindigul District.

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For Petitioner : Mr.S.Alagarsamy

For R1 : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor

ORDER

This petition has been filed seeking to review the order passed by this Court in W.P(MD)No.13918 of 2024, dated 28.06.2024.

2.The learned Counsel appearing for the petitioner submits that earlier, when the petition in W.P(MD)No.13918 of 2024 was taken up for hearing, this Court by recording the submission made by the learned Additional Public Prosecutor that the respondent police is not harassing the petitioner, has closed that petition. However, the respondent police, by referring that order passed by this Court in the said writ petition, is not permitting the petitioner to conduct the festival. Therefore, he prays for reviewing the earlier order.



Rev Apl W(MD)No.134 of 2024

WEB COPY

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:

"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



Rev Apl W(MD)No.134 of 2024

insufficient....."

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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 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***



Rev Apl W(MD)No.134 of 2024

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.

(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



Rev Apl W(MD)No.134 of 2024

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.In the writ petition in W.P(MD)No.13918 of 2024, the petitioner alleged that he is being harassed by the respondent police and sought a direction as against the respondent police not to harass him. By recording the submission of the learned Additional Public Prosecutor that the police is not harassing him, this Court has closed the earlier writ petition. Now, the petitioner is seeking for reviewing this order and seeking permission to conduct the temple festival.

5.This Court feels that the petitioner has not made out any ground to review the earlier order. Having framed such a prayer for not to harass, instead of seeking permission to conduct the festival, the petitioner cannot find fault with the respondent police and cannot maintain this petition.

6.This Court does not find any error apparent as the face of the record in the order dated 28.06.2024. Accordingly, this review application



Rev Apl W(MD)No.134 of 2024

is dismissed with liberty to the petitioner to workout her remedy elsewhere. No costs.

19.07.2024

Index : yes / No
Internet : yes / No

LR

To

1.The Inspector of Police,
Ottanchatram Police Station,
Dindigul District,
Dindigul.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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Rev Apl W(MD)No.134 of 2024

B.PUGALENDHI, J.

LR

Rev Apl W(MD)No.134 of 2024

19.07.2024