

Rev.AplW(MD).Nos.168 & 170 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :05.12.2024

CORAM

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Rev.APLW.(MD).Nos.168 & 170 of 2024

in

WP(MD) Nos.27922 & 28155 of 2023

Rev.APLW.(MD).No.168 of 2024:-

R.Sathiya Rooban

... Petitioner

Vs.

1.The Superintendent of Police,
Kanyakumari District.

2.The State Rep by
The Inspector of Police,
Kottar Police Station,
Kottar,
Nagercoil,
Kanyakumari District.

3.M.Baskar

4.Jeya Velmurugan

5.K.Sakthivel

6.K.Sarirajan

7.V.Mathan

...Respondents

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Rev.APLW.(MD).No.170 of 2024:-

R.Sathiya Rooban

... Petitioner

Vs.

1.Arulmighu Devi Sri Mutharamman Thirukovil and
Sudalaimaadaswami Kovil Hindu Nadar,
Samuthaya Vakai Trust,
Sakakkalvilai,
Rep by its President,
M.Baskar

2.The Superintendent of Police,
Kanyakumari District.

3.The State Rep by
The Inspector of Police,
Kottar Police Station,
Kottar,
Nagercoil,
Kanyakumari District.

...Respondents

PRAYER in Rev.APLW.(MD).No.168 of 2024:- : Petitions filed under Order 47 Rule 1 & 2 r/w Section 114 of C.P.C., to review the order passed by this Court in WP(MD) No.27922 of 2023, dated 30.04.2024.



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PRAYER in Rev.APLW.(MD).No.170 of 2024:- : Petitions filed under Order 47 Rule 1 & 2 r/w Section 114 of C.P.C., to review the order passed by this Court in WP(MD) No.28155 of 2023, dated 30.04.2024.

For Petitioner : Mr.J.Barathan
For R1 & R2 : Mr.K.Gunasekaran
Government Advocate
For R3 & R4 : Mr.N.Dilip Kumar
For R5 to R7 : No appearance

(in Rev.APLW.(MD).No.168 of 2024)

For Petitioner : Mr.J.Barathan
For R1 : Mr.N.Dilip Kumar
For R2 & R3 : Mr.K.Gunasekaran
Government Advocate

(in Rev.APLW.(MD).No.170 of 2024)

COMMON ORDER

These Review Applications are filed to review the orders passed by this Court in WP(MD) Nos.27922 of 2023 & 28155 of 2023, dated 30.04.2024.



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2. WP(MD) No.27922 of 2023 was filed for a Mandamus, directing the Superintendent of Police, Nagercoil to give suitable instructions to the Inspector of Police, Nagercoil to provide adequate police protection for celebration of Karthigai Kodai Festival to "Sarakkal Vilai Arulmighu Devi Sri Mutharamman Thirukovil at Sarakkal Vilai" on 12.12.2023 and 13.12.2023, by considering his representation, dated 30.10.2023.

3.WP(MD) No.28155 of 2023 was filed for a Mandamus, directing the Superintendent of Police, Nagercoil and the Inspector of Police, Nagercoil to provide adequate police protection for celebration of Arulmighu Devi Shri Mutharamman Thirukoil Karthigai Kodai Vizha, scheduled to be celebrated from 07.12.2023 to 10.12.2023, in the light of the petitioner's representations, dated 09.11.2023.



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4. Since there was a rival claim for conducting the temple festival and the period scheduled for conducting the temple festival was over, on the date of disposal of the writ petitions, these writ petitions were dismissed as infructuous by this Court, by order, dated 30.04.2024, with liberty to the petitioners to work out their remedy before the appropriate Civil Forum or before the HR & CE Department as to their entitlement in conducting the temple festival.

5. Now, these Review Applications have been filed on the following grounds:-

- i. If the parties are directed to approach the Civil Court, the conduction of festivals in the temple would come to a standstill.
- ii. If an election in the temple is conducted by a retired District Judge or an Advocate, the entire dispute will come to an end.



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iii. When the majority of villagers do not favour and recognise the third respondent, namely Baskar as a person capable of managing Arulmighu Devi Sri Muthaaramman Thirukkovil, his claim as a President of Arulmighu Devi Sri Muthaaramman Thirukovil and Sudalaimaadaswami Kovil is liable to be dismissed.

6. Before venturing into any discussion as to the merits of these Review applications, 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 decision 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,***



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reported in **CDJ 2014 MHC 241**, wherein the Division Bench has made a complete survey of several decisions of the Supreme Court, on this question, and has ultimately 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 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



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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***



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*PC 112 and approved by this Court in **Moran Mar Basselios Catholicos Vs. Most Rev.Mar Poulouse 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



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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 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 negated."

7. Very recently, a Division Bench of the Hon'ble Supreme Court, in ***State of Telangana and Others v. Mohd. Abdul Qasin (Died) Per Legal Representatives [(2024) 6 SCC 461]***, has reiterated the power and scope of review. The relevant portions are extracted as under:-

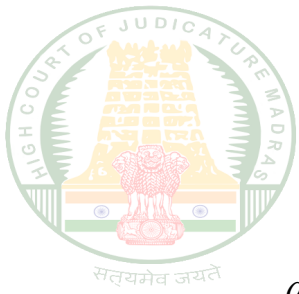


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“24.Section 114 read with Order 47 Rule 1CPC, 1908 is verbatim similar to Section 623 CPC, 1877, except for the Explanation to Order 47 Rule 1 which was added by way of an amendment in the year 1976. Section 114 CPC, 1908 speaks of the circumstances, instances and situations under which a review can be filed. The words “as it thinks fit” cannot be interpreted to mean anything beyond what is conferred under Order 47 Rule 1. In other words, Section 114 has to be read along with Order 47 Rule 1. While they are to be read together, Section 114 is more procedural, whereas Order 47 Rule 1 is substantially substantive.

25.The words “due diligence”, though one of fact, places onus heavily on the one who seeks a review. ...

26.Mistake or error apparent on the face of record would debar the court from acting as an appellate court in disguise, by indulging in a re-hearing. A decision, however erroneous, can never be a factor for review, but can only be corrected in appeal. Such a mistake or error should be self-evident on the face of record. The error should be grave enough to be identified on a mere cursory look, and an omission so glaring that it requires interference in the form of



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a review. Being a creature of the statute, there is absolutely no room for a fresh hearing. The court has got no role to involve itself in the process of adjudication for a second time. Instead, it has to merely examine the existence of an apparent mistake or error. Even when two views are possible, the court shall not indulge itself by going into the merits.

27.The material produced, at this stage, should be of such pristine quality which, if taken into consideration, would have the logical effect of reversing the judgment. Order 47 Rule 1CPC, 1908 indicates that power of review can be exercised by courts, in three different situations, but these occasions ought to be read in an analogous manner. In other words, they should be read in a manner to mean that a restrictive power has been conferred upon the court. As stated, the words “for any other sufficient reason” ought to be read in conjunction with the earlier two categories reiterating the scope. Being a judicial discretion, it has to be exercised with circumspection and on rare occasions. It is a power to be exercised by way of an exception, subject to the rigours of the provision.”



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8.In view of the ratio referred above and in view of the discussions made supra, this Court does not find any error apparent on the face of the record and as such, there is no scope for reviewing the orders dated 30.04.2024 made in WP(MD) Nos.27922 of 2023 and 28155 of 2023.

9.Accordingly, these Review Applications are dismissed. No Costs.

05.12.2024

NCC : Yes/No
Index : Yes / No
Internet: Yes
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To
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Sudalaimaadaswami Kovil Hindu Nadar,
Samuthaya Vakai Trust,
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Rep by its President,
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- 2.The Superintendent of Police,
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B.PUGALENDHI, J.

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Order made in
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in
WP(MD) Nos.27922 & 28155 of 2023

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