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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 27.06.2024

Pronounced on : 05.09.2024

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

Rev.Aplc.(MD)Nos.100 & 101 of 2024
in
C.R.P(MD)Nos.1033 of 2020 & 57 of 2019

Rev.Aplc.(MD)No. 100 of 2024

The Land Acquisition Officer/
Revenue Divisional Officer,
Revenue Divisional Office,
Palani,
Dindigul District.

...Review Applicant/Petitioner

Vs

Ms.Rajaratha Trust,
Neikarapatti,
Represented by its Trustee,
J.Thulasidaran,
Palani Taluk,
Dindigul District.

...Respondent/Respondent

PRAYER: Review Application is filed under Order 47 Rule 1 & 2 r/w Section 114 of C.P.C., to review the order passed in C.R.P(MD)No.1033 of 2020, dated 08.03.2022 by allowing the above review application.



For Petitioner : Mr.J.Ravindran
Additional Advocate General
Assisted by
Mr.C.Satheesh
Government Advocate

For Respondent : Mr.T.D.Vasu for
Mr.A.R.M.Arunachalam

Rev.Aplc.(MD)No. 101 of 2024

The Land Acquisition Officer/
Revenue Divisional Officer,
Revenue Divisional Office,
Palani,
Dindigul District.

...Review Applicant/Respondent

Vs

Ms.Rajaratha Trust,
Neikarapatti,
Represented by its Trustee,
J.Thulasidaran,
Palani Taluk,
Dindigul District.

...Respondent/Respondent

PRAYER: Review Application is filed under Order 47 Rule 1 & 2 r/w Section 114 of C.P.C., to review the order passed in C.R.P(MD)No.57 of 2019, dated 08.03.2022 by allowing the above review application.

For Petitioner : Mr.J.Ravindran
Additional Advocate General
Assisted by
Mr.C.Satheesh
Government Advocate

For Respondent : Mr.T.D.Vasu for
Mr.A.R.M.Arunachalam



COMMON ORDER

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The instant review applications have been filed by the State challenging the common order passed by this Court in C.R.P.(MD)Nos.57 of 2019 and 1033 of 2020, dated 08.03.2022.

(A)The facts leading to the filing of the review applications are as follows:-

2.An extent of 79.24 acres of land belonging to the respondent Trust was acquired by the Government by issuing 4(1) notification, dated 19.01.1972. Pursuant to the said notification, possession was taken by the Public Works Department on 15.05.1971. Later, 4(1) notification got lapsed. Since declaration was not issued within the time, a fresh 4(1) notification was issued on 11.09.1990. The land acquisition officer has passed an award dated 10.02.1993. Not being satisfied with the said award, the Trust sought for reference under Section 18 for the Land Acquisition Act.

3.The learned Subordinate Judge in L.A.O.P.No.3 of 2000 had passed an award dated 16.07.2004, fixing the compensation of Rs.82,800/- per acre. Aggrieved over the same, the State had filed A.S.Nos.132 and 133 of 2001 before this Court. The claimants had filed Cross Objections Nos.14 and 15 of



2003. This Court by an order dated 17.03.2003, had fixed the compensation at Rs.28,000/- per acre, additional amount of 12% per annum as contemplated under 23(1A) of the Act also fixed with solatium of 30%. The order of this Court has attained finality.

4.Challenging the same, the Trust/Claimants had filed A.S.No.15 of 2007 seeking the enhancement and the State had filed A.S.No.123 of 2005 and A.S(MD)No.15 of 2007 seeking to set aside the award.

5.The common order passed by this Court on 04.03.2016, dismissing the appeal filed by the State and partly allowed the appeal filed by the claimant fixing Rs.1,118/- percent. This order of High Court has reached finality.

6.While the appeal was pending before the High Court, the claimant had filed E.P.No.96 of 2009, and the same was dismissed as not pressed on 14.07.2009. The claimant later filed E.P.No.75 of 2016 on 28.05.2016 before the Sub Court, Palani, seeking to execute the award.



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7. However, though the review application in E.A.No.243 of 2017 was allowed, the claimants were not satisfied to the extent, it was not favour of them. Therefore, they challenged the order of E.A.No.243 of 2017 in C.R.P. (MD)No.57 of 2019.

8. The claimants had filed I.A.No.6 of 2007, seeking to amend the award passed in L.A.O.P.No.3 of 2000, seeking interest from the date of taking possession instead of date on which 4(1) notification was issued. This application was allowed by the tribunal on 18.03.2009 and the same was challenged by the State in C.R.P.(MD)SR.No.14238 of 2017, the condone the delay was rejected on 24.04.2017. Therefore, the amendment of L.A.O.P. award has attained finality. E.P.No.75 of 2016 was allowed on 27.11.2017.

9. Pursuant to the amendment of L.A.O.P. award, the claimants had filed E.A.No.243 of 2017, dated 27.11.2017, to review the order passed in E.P.No.75 of 2006. Though the application was resisted by the State, the review application was allowed by the tribunal on 23.07.2018, with a direction to the State to deposit a sum of Rs.5,14,79,869/-. The State as well as the claimants were aggrieved over the said order. The claimants had filed C.R.P.(MD)No.57



of 2019 and the State had filed C.R.P.(MD)No.1033 of 2020 before this Court.

This Court by way of common order had directed the State to deposit a sum of Rs.29,00,17,197/- after deducting the amount already deposited with 15% from the date of Execution Petition till the date of deposit within a period of six months. These two orders are sought to be reviewed in the present review application.

(B)Contentions of the learned Counsels appearing on either side:

10.The learned Additional Advocate General appearing for the review petitioner has contended that, though various grounds were raised in the revision petition as well in the written arguments, the same has not been considered. Therefore, there is an error apparent on the face of the record. He further contended that the Tribunal was not right in issuing a direction to the State to deposit a further amount, but same has not been properly appreciated by the revisional Court.

11.The learned Additional Advocate General has further contended that the Tribunal has no jurisdiction, whatsoever to amend the award, dated 18.03.2009, while the appeal is pending before this Court in A.S.(MD)No.123 of 2005. He further contended that as per the directions of the Hon'ble Supreme



Court in *Gurpreet Singh Vs. Union of India* reported in 2007 (5) CTC 170, the State had already deposited the entire amount and the said aspects had not been considered by the High Court. As per the calculation memo filed by the review applicant, the land acquisition officer has to pay only a sum of Rs.11,94,822/-, but the Execution Court had directed the State to deposit a sum of Rs.5,14,79,869/-. Therefore, there is an error apparent on the face of the record. He further contended that the Execution Petition has been filed only on the basis of the unamended decree and therefore, the tribunal was not right in directing the State to deposit further amount. He further contended that the period of limitation for filing an Execution Petition for executing the award, dated 18.03.2009 had expired and therefore, a fresh Execution Petition in E.P.No.75 of 2016 is not valid in the eye of law. Hence he prayed for allowing the revision application.

12.Per contra, the learned Counsel appearing for the claimants had contended that L.A.O.P. award was amended by an order dated 18.03.2009 and therefore, the Execution Petition filed on the basis of the amended award is well within time. He further contended that the E.P. order had to be reviewed, in view of the amendment of the award. When the amendment to the acquisition award was confirmed by this Court, the State cannot have any objection



whatsoever to review the order in E.P., so that it can be in consonance with the amended award of the tribunal. He further contended that the E.P. that was filed on 25.04.2016 in E.P.No.75 of 2016 has clearly incorporated the amendments made to the award in L.A.O.P.No.3 of 2000 and therefore, the execution petition is only on the basis of the amended decree. He further contended that the Government has proceeded to issue orders to the neighbouring owners on the basis of the date of taking possession of the land and therefore, the petitioner being similarly placed persons, the State cannot take a different stand.

13.The learned Counsel appearing for the respondent had relied upon the order of this Court in C.R.P.(MD)Nos.1563 and 1564 of 2019, dated 03.01.2022, wherein, a similar challenge made by the State has been rejected. Hence, he prayed for dismissal of the review application.

14.I have carefully considered the submission made on either side and perused the materials available on records.

(C) Discussion:

15.The common order passed by this Court in C.R.P.(MD)No.57 of 2019 and C.R.P.(MD)No.1033 of 2020 dated 08.03.2022 has sought to be reviewed



in this review applications.

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16.The grounds raised by the learned Additional Advocate General in the review applications are on the merits of the orders passed by this Court. Though it is contended on the part of the learned Additional Advocate General that the orders passed by the learned Judge was later modified without assigning any reasons. On perusal of the records, it could be seen that after disposal, the revision petition was again listed for hearing and after hearing both the parties, the order has been modified. Therefore, the said ground raised by the State is not legally sustainable.

17.It is the contention of the learned Additional Advocate General that E.P.No.75 of 2016 has been filed based upon the unamended award in L.A.O.P.No.3 of 2000, dated 16.07.2004. However, a perusal of E.P.No.75 of 2016 reveals that the column Nos.C,D and G in the E.P. petition are based upon the amended L.A.O.P. award. Therefore, the said contention is also liable to be rejected.

18.It is the further contention of the learned Additional Advocate General that E.P.No.75 of 2016 have been filed relying upon the amended award dated 18.03.2009 is barred by limitation. However, it could be seen from the records



that the appeals filed as against the unamended award were disposed of by this Court only on 04.03.2016, by modifying the award of the Tribunal. Therefore, the execution proceedings filed on 28.05.2016 can never to be considered to be barred by limitation.

19.The Hon'ble Supreme Court in a judgment reported in **(2024) 2 SCC 362 (Sanjay Kumar Agarwal Vs. State Tax Officer(1) and another)** in paragraph No.16 has summarized the proposition of law relating to the entertainment of review applications and the same is extracted as follows:

“16. The gist of the aforestated decisions is that: -

16.1. A judgment is open to review inter alia if there is a mistake or an error apparent on the face of the record.

16.2. A judgment pronounced by the Court is final, and departure from that principle is justified only when circumstances of a substantial and compelling character make it necessary to do so.

16.3. An error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of record justifying the court to exercise its power of review.

16.4. In exercise of the jurisdiction under Order 47 Rule 1 CPC, it is not permissible for an erroneous decision to be “reheard and corrected.”

16.5. A Review Petition has a limited purpose and cannot



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be allowed to be “an appeal in disguise.”

16.6. Under the guise of review, the petitioner cannot be permitted to reagitate and reargue the questions which have already been addressed and decided.

16.7. An error on the face of record must be such an error which, mere looking at the record should strike and it should not require any long-drawn process of reasoning on the points where there may conceivably be two opinions.

16.8. Even the change in law or subsequent decision/judgment of a coordinate or larger Bench by itself cannot be regarded as a ground for review. “

20. In view of the Judgment of the Hon'ble Supreme Court, no error apparent has been pointed out to invoke the order 47 Rule 1 of C.P.C. That apart, it could be seen that the entire submission is based on merits of the revision petitions and an attempt has been made out to re-argue the revision application.

21. Therefore, there are no merits in these review applications. Accordingly, these review applications are dismissed. No costs.

05.09.2024

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
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R.VIJAYAKUMAR, J.

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Pre-delivery order made
in
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in
C.R.P(MD)Nos.1033 of 2020 & 57 of 2019

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