

Rev.AplW(MD).No.61 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).No.61 of 2024

in

WP(MD) No.17512 of 2021

Sri Ramu Travels,
Represented by its Partner,
V.Sundar,
Having office at,
No.61, P.T.Rajan Road,
Narimedu,
Madurai – 625 002.

... Petitioner

Vs.

- 1.V.Ramanathan
- 2.V.Senthilkumar
- 3.The Regional Transport Authority,
Madurai (North), Madurai.
- 4.The Regional Transport Officer,
Madurai (North), Madurai.
- 5.S.Meenakshi.
- 6.K.R.Amirtha



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7.The Deputy Director,
Employees State Insurance Corporation,
Sub Regional office,
4th Main Road,
K.K.Nagar,
Madurai – 625 020.

8.The Recovery Officer,
Employees State Insurance Corporation,
Sub Regional Office,
4th Main Road,
K.K.Nagar,
Madurai – 625 020.

...Respondents

PRAYER : Petitions filed under Order 47 Rule 1 & 2 r/w Section 114 of C.P.C., to call for records of the order passed by this Court in WP(MD) No.17512 of 2021, dated 11.10.2023.

For Petitioner	: Mr.B.Prasanna Vinoth
For R1, R2, R6 to R8	: No appearance
For R3 & R4	: Mr.P.T.Thiraviam Government Advocate
For R5	: Mr.A.Prasanna Rajadurai



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ORDER

The second petitioner in WP(MD) No.17512 of 2021 has filed this Review Application that the order passed by this Court in WP(MD) No.17512 of 2021, dated 11.10.2023 needs to be reviewed.

2.The petitioner along with his brothers has filed the above writ petition for a Mandamus, to direct the Regional Transport Authority, Madurai (North), Madurai for transfer of stage carriage permit in respect of the vehicle bearing Reg.No.TN 59 AM 7705, plying on the route Madurai to Kallal, along with a spare bus permit in respect of vehicle bearing Reg.No.TN 59 AC 6192 and also to renew the stag of carriage permit for a further period from 01.09.2021 to 31.08.2026.

3.This Court, by order, dated 11.10.2023 has disposed of the above writ petition as under:-



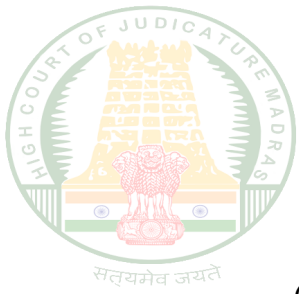
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"6.In view of the above, this writ petition is disposed of with the following directions:

(i)The arbitration proceedings shall be conducted and concluded within a period of four months from the date of receipt of a copy of this order. The petitioner No.2 and respondent No.3 shall meet out the expenses to the arbitrator and the proportionate amount liable to be borne by other parties for the arbitration shall be awarded by the arbitrator in favour of the petitioner No. 2 and respondent No.3, who are paying the charges to the arbitrator. The amount due to the ESI Corporation shall also be borne equally by the legal heirs and this shall also be decided in the arbitration proceedings.

()(ii) The Arbitrator shall decide the issue with regard to the amount deposited to the credit of the writ petition in the arbitration proceedings.*

(iii)Till the disposal of the arbitration proceedings, the petitioner No.2 shall operate the stage carriage, maintain a separate account and deposit the income arrived in the



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account. The bank passbook for this account shall be filed before the arbitrator. The details of the income and the expenditure shall be filed before the arbitrator every month enabling the arbitrator to pass orders on that income also. No costs. Consequently connected miscellaneous petition is closed."

4.Now, the petitioner has filed this Review Application that though he undertook for an arbitration proceedings, he is not in a position to continue the same. According to him, he has paid a sum of Rs.82,67,000/-, pursuant to an earlier auction and he is expected to deposit a further sum of Rs.1,65,33,000/-. Since this petitioner's daughter's marriage was scheduled on 11.02.2024, this petitioner has filed this review application on 03.01.2024 that he is not in a position to pay the remaining amount of Rs.1,65,33,000/-. Though this review application was filed and numbered by the Registry, it has been listed for hearing only on 22.03.2024 and on that day, a notice was ordered.



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5. Before venturing into any discussion as to the merits of this

Review application, 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***, 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



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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:-



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(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 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.*



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(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 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."*



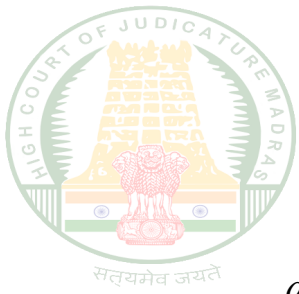
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6. Very recently, a Division Bench of the Hon'ble Supreme Court, in *State of Telangana and Others v. Mohd. Abdul Qasin (Died) Per Legal Representatives [(2024) 6 SCC 461]*, has reiterated the power and scope of review. The relevant portions are extracted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

“24. Section 114 read with Order 47 Rule 1 CPC, 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



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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 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



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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.”

7.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 order dated 11.10.2023 made in WP(MD) No.17512 of 2021.

8.Accordingly, this Review Application is dismissed. No Costs.

05.12.2024

NCC : Yes/No
Index : Yes / No
Internet: Yes
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To
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B.PUGALENDHI, J.

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