



Review Application No. 110 of 2025

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Dated: 30.04.2025

CORAM:

THE HONOURABLE MRS JUSTICE V.BHAVANI SUBBAROYAN

Review Application No. 110 of 2025

and W.M.P.No.12445 of 2025

N.Indra

.. Applicant

Vs

1.D.Bakthavachalu & Co.
Rep. by its Partner
E.Thanigaimalai
No.32/50, Gandhi Road,
Jagnathan Nagar, Arumbakkam,
Chennai - 600 106.

2.The Member Secretary,
Chennai Metropolitan Development Authority
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008.

3.The Chief Executive Officer,
Chennai Metropolitan Development Authority
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008.

..Respondents

Prayer: Review Application is filed under Order XLVII Rule 1 Read with Section 114 of CPC to review the order dated 10.01.2025 made in W.P.No.37950 of 2016 and set aside the same.



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For Applicant : Mr C.K.Chandrasekkar
for Mr.C.Umashankar

For Respondents : Mr.P.Kumaresan AAG for R2 and R3
Asst. by Mrs.P.Veena Suresh
Standing Counsel (CMDA)

J U D G M E N T

This review application is directed against the order passed by this Court in W.P. No. 37950 of 2016, dated 10.01.2025.

2. The learned counsel for the review petitioner raised grounds stating that the judgment of the Hon'ble Supreme Court in S.L.P. No. 8202 of 2011 dated 26.11.2023 does not contemplate or direct the CMDA to conduct any auction, but only to allot as per law. This Court has misconstrued the directions issued by the Hon'ble Supreme Court as if it had directed the CMDA to conduct an auction. Such a finding is an error apparent on the face of the record.

3. The Court had directed to conduct a fresh auction, thereby forfeiting the right, title, and interest of the review petitioner, which accrued by virtue of a registered sale deed dated 22.07.2016 in Document



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No. 3313 of 2016 registered before the Sub-Registrar Office, Anna Nagar. The learned counsel further submitted that when the CMDA itself admitted that the allotment made to the review petitioner was as per law, the directions issued by this Court are contrary to the admission made by the CMDA.

4. The learned counsel for the review petitioner also submitted that both the review petitioner and the 1st respondent/writ petitioner in W.P. No. 37950 of 2016 had sought withdrawal of their respective writ petitions before this Court and had no intention of contesting the case. However, this Court misconstrued the representation made by both the parties and erroneously passed the order dated 10.01.2025.

5. The learned counsel further submitted that there is no revenue loss to the Government, as the 2nd respondent, while allotting the shop portion to the petitioner, demanded a higher rate of Rs. 7,000/- per sq. ft., whereas other shops were offered at Rs. 3,000/- per sq. ft. The specific case of the petitioner is that since it was the policy decision of the second



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respondent to allow the petitioner to continue occupying the shop portion, which was allotted to the petitioner as he was willing to pay a higher price than the auction price, the said act of the 1st respondent cannot be questioned as it falls within the policy-making domain. Therefore, this Court cannot interfere in the policy-making sphere of the Government.

6. The learned counsel for the respondent submitted that the allotment order for the conversion of Shop No. M11 to J112 in Periyar Vegetable Market had been issued in favour of Tmt. Indira vide Order No. K2/2794/2003, dated 05.10.2015, and the corresponding sale deed was executed on 22.07.2016. In order to bring quietus to the issue regarding the surrendering of allotment of the subject shops, the respondent authority has expressed its willingness to conduct a public auction, upon suitable directions from this Court, after the subject shop is handed over by the 3rd respondent. They have not proceeded further to take possession of the said review petitioner's shop but have simply stated that they are awaiting orders from this Court. They have to proceed



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in the manner known to law and conduct a fresh auction as per the decisions laid down by various judgments of this Court, wherein it has been held that public auctions must be conducted even for village panchayat shops and corporation shops.

7. Upon hearing the parties and perusing the materials on record, this Court finds that the grounds raised in the review petition are not grounds warranting a review, instead they are the grounds more appropriately to be raised in an appeal before the Hon'ble Division Bench. A review petition is maintainable only when there is an error apparent on the face of the record or when there is a typographical or clerical mistake. It cannot be invoked to re-argue the case or to reappraise the findings rendered after full consideration.

8. In the present case, this Court while deciding the Writ Petition, considered the directions of the Hon'ble Supreme Court, which had categorically held that once an allotment was found to be illegal, fresh allotments must be made in accordance with law and no preference shall



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be given to any party merely based on earlier possession or applications.

The Hon'ble Apex Court had specifically set aside the directions of the High Court granting such preferences and had directed that fresh allotments must follow a public process. The relevant portion is extracted hereunder;

“.....However, we find that the High Court has unnecessarily directed that in case the appellant and the respondent no.1, make an application, they shall be given preference over the other applicants. We see no reason as to why such preference has been given to any applicant. Once the allotment has been held to be illegal and set aside, and the High Court had directed that a fresh allotment be made as per law, then all candidates including the previous candidate and any other new candidate who may apply for the same would be eligible to be considered at par.

It is also brought to our notice by the learned counsel for the appellant that he is still in possession of the shop. The High Court, having quashed the allotment, ought to have issued a further direction that the possession



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be surrendered to the respondent-Authority. Since no direction has been issued, we hereby direct that the appellant shall surrender vacant possession of the aforesaid shop to the respondent-authority within a period of two months. The Respondent no.2- Corporation is directed to refund the security amount deposited by the appellant within a period of four weeks of the receipt of copy of this order"

9. The petitioner now contends that the allotment made in her favour through an order dated 05.10.2015 and the subsequent registered sale deed dated 22.07.2016 is valid and lawful. However, no material evidence has been produced to show that such allotment was made pursuant to a fresh and valid notification or auction as mandated by law. The reliance placed by the review petitioner on alleged policy decisions or internal resolutions, without corresponding compliance with the directions of the Hon'ble Supreme Court, cannot be accepted at this stage.

10. Furthermore, the review petitioner argues that both parties had sought withdrawal of the writ petitions, and thus, the Court should not



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have adjudicated the matter on merits. However, while passing the order dated 10.01.2025, this Court considered the larger public interest and the binding nature of the directions of the Hon'ble Supreme Court, which could not be circumvented merely by the consent of private parties.

11. It is relevant to note that this Court vide order dated 10.01.2025 in the Writ Petition No.37950 of 2016 had cancelled the allotment made in respect of in respect of Shop No.J112 and directed the CMDA to conduct fresh auction within a period of two months from the date of receipt of copy of this order, but no effective steps have been taken by the authorities by obeying the orders of this Court, instead of conducting fresh auction, the CMDA authorities by colluding with the third parties delayed the process and instrumental in initiating the process of filing the present review petition. Further, this Court on 17.04.2025, acceding to the request of the learned counsel for the CMDA directed to file an undertaking on 25.04.2025. Also, on 25.04.2025, the petitioner was directed to file an undertaking affidavit to the effect that she will vacate the premises on or before 30.06.2025, failing which, CMDA was directed to take possession of the premises with police



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protection. Further, it is seen that the authorities colluding with the third parties not conducted fresh auction, as directed by this Court and the Hon'ble Apex Court. The Legal Department was a mute spectator and has not proceeded as per directions of this Court, which is not appropriate on the part of the department. Also no steps have been taken to that effect and not filed status report to show as to what action have been taken by the officials. Hence this Court hereby again directs the officials / authorities to proceed against the erred officials in accordance with law, who have not obeyed the earlier order. It is further directed that the CMDA authorities shall strictly comply with the orders passed by this Court and proceed to evict unauthorized occupants and conduct public auctions for the re-allotment of the shops in question, in accordance with law.

12. The CMDA is hereby directed to file a comprehensive compliance report, detailing the steps taken pursuant to the order dated 10.01.2025, including the eviction process and auction proceedings, before the Registrar General of this Court on or before 30.05.2025. Failure to comply with the above directions may entail initiation of



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appropriate proceedings against the concerned officials suomotu.

13. The power of review can be exercised where an error, apparent on the face of the record, exists, that is, an error so manifest that it does not require elaborate reasoning or a process of re-argument. In the absence of such an error, review is not maintainable.

14. For the reasons stated above, this Court finds that no error apparent on the face of the record has been demonstrated warranting exercise of the review jurisdiction. The proper remedy available to the review petitioner is to file an appeal against the order passed in the writ petition before the Hon'ble Division Bench, and not by way of a review application.

15. Accordingly, the Review Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

30.04.2025

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Index: Yes/No; Internet: Yes/No
Speaking order: Non-speaking order

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V.BHAVANI SUBBAROYAN, J.

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