



Review Application No.141 of 2007

THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

Order reserved on : 25.08.2025

Order pronounced on : 04.09.2025

CORAM

THE HON'BLE MR. JUSTICE P.B.BALAJI

Review Application No.141 of 2007
in C.R.P.No.1148 of 2006

Mummalapedu Rathinavel Chettiar and
Ethirajammal Trust,
rep. by its Trustee, M.A.Rathinavel.

..Petitioner

Vs.

R.Balaraman

..Respondent

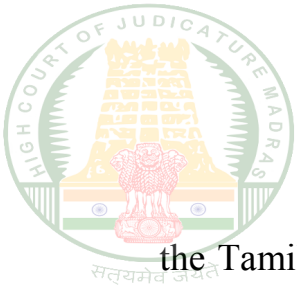
Prayer: Review Application filed under Section 114 r/w Order 47 Rules 1 and 2 of CPC, to review the order in C.R.P.No.1148 of 2006 dated 13.03.2007 to set aside the order, allow the Civil Revision Petition.

For Petitioner : Mr.S.Sadasharam
& Mr.V.M.Ravishankar

For Respondent : Mr.V.Raghavachari
Senior Counsel
for Mr.T.Paranthaman

ORDER

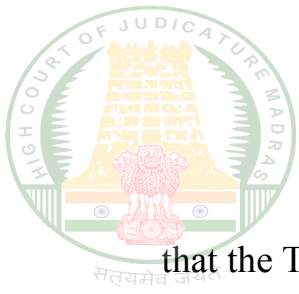
The present review petition is at the instance of the plaintiff in O.S.No.14832 of 1996. The said suit was filed for ejectment of the respondent herein. In the said suit, the respondent filed an application under Section 9 of



the Tamil Nadu City Tenants Protection Act for purchasing the property under the occupation of the respondent. The said application came to be allowed by the trial Court. The revision petitioner challenged the same in C.M.A.No.116 of 2004. However, the said appeal was dismissed and aggrieved by the concurrent findings, the petitioner preferred a civil revision petition before this Court and pending the revision, the petitioner attempted to file a registered Trust Deed dated 20.12.1909, which according to the petitioner, reveals the true character of the subject property as “public religious and charitable trust”. However, this Court, while disposing of the revision, by order dated 13.03.2007, found that the concurrent findings passed by the Courts below were not liable to be interfered with and the petitioner was not entitled to rely on the Trust Deed, that too, for the first time before this Court in revision. It is this order that is now sought to be reviewed by the petitioner.

2.I have heard Mr.S.Sadasharam, learned counsel for the review petitioner and Mr.V.Raghavachari, learned Senior Counsel for Mr.T.Paranthaman, learned counsel for the respondent.

3.Mr.S.Sadasharam, learned counsel for the review petitioner, would state



that the Tamil Nadu City Tenants Protection Act was amended by Act 2 of 1996 and the petitioner, being a Public Religious and Charitable Trust, is not obligated to sell the property to the tenant, as Section 9 has been made inapplicable to persons like the review petitioner. He would also place reliance on the Amendment Act and the proviso, which according to the learned counsel, would enable the petitioner to raise the contention regarding the non-availability of the right under Section 9 to a tenant, if the property belongs to a public trust. He would therefore contend that this Court ought not to have refused to receive the trust deed. He would therefore pray for the review being ordered.

4.Per contra, Mr.V.Raghavachari, learned Senior Counsel appearing for the respondent would first and foremost contend that there is absolutely no ground made out for review under Order 47 of the Code of Civil Procedure, as there is no error apparent on the face of the record. He would further state that the petitioner had initially filed a Rent Control Petition in RCOP.No.2700 of 1993 seeking to evict the respondent / tenant herein, but however, the said eviction petition was dismissed. The said order of the Rent Controller was not challenged by way of appeal. Subsequently, the petitioner choose to terminate the tenancy of the respondent and filed the instant suit for ejectment.

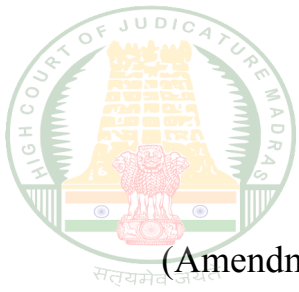


WEB COPY

5.The learned Senior Counsel for the respondent would further state that even in the proceedings before the Rent Controller, the case of respondent/tenant was that the trust was owner only of the land and not the superstructure and therefore, the respondent had a right to purchase the property under Section 9 of the Tamil Nadu City Tenants Protection Act.

6.As rightly contended by Mr.V.Raghavachari, learned Senior Counsel appearing for the respondent, even though the present suit was filed after the amendment to the City Tenants Protection Act by Act 2 of 1996, the petitioner never set up a case that the petitioner was a public trust and was entitled to the benefits of Section 9 of the City Tenants protection Act. The only ground on which the suit came to be filed and also the Section 9 application was resisted was that the petitioner owns both the land and building and therefore, the tenant not having put up the superstructure or owning the superstructure, is not entitled to the benefits of Section 9 of the Tamil Nadu City Tenants Protection Act.

7.Mr.S.Sadasharam, learned counsel for the review petitioner, has placed reliance on the proviso to Section 3 of the Chennai City Tenants' Protection



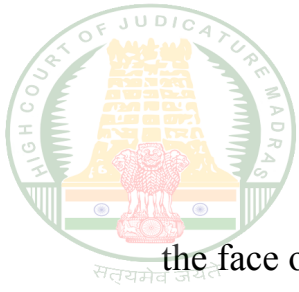
(Amendment) Act, 1994 (TN Act 2 of 1996) which reads as follows:

WEB COPY

“Provided that nothing contained in this section shall be deemed to invalidate any suit or proceeding in which a decree or order passed has been executed or satisfied in full before the said date.”

8.I do not see how the above proviso to Section 3 of the Amendment Act will even apply to the facts of the present case. The proviso is intended to operate in a completely different scenario altogether and in any event, it does not entitle the plaintiff to take a plea for the first time in revision that the petitioner / plaintiff is a trust, which is exempted from the provisions for applicability of Section 9 of the Tamil Nadu City Tenants Protection Act.

9.Even otherwise, I find that this Court, while dismissing the revision, has thread bare gone into all these issues and has rightly found that the petitioner cannot be allowed to set up a new case, by introducing the Trust Deed, that too, for the first time in the revision, not having raised the said issues or attempted to mark the document before the courts below. If at all the petitioner was aggrieved by the said order of this Court, the petitioner ought to have challenged the same further, by way of a special leave and not seek for review of the said order. I do not find any grounds made out by the petitioner in the review petition to even *prima facie* establish that there is an error apparent on



Review Application No.141 of 2007

the face of the record. In light of the above, I do not find any merit in the review petition.

10.In fine, the Review Application is dismissed. There shall be no order as to costs.

04.09.2025

Speaking/Non-speaking order
Index : Yes/No
ata

P.B.BALAJI.J.

ata



WEB COPY



Review Application No.141 of 2007

Pre-delivery order made in
Review Application No.141 of 2007
in C.R.P.No.1148 of 2006

04.09.2025