



W.A.No.1247 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 03.06.2025

C O R A M

THE HONOURABLE MRS.JUSTICE J.NISHA BANU
AND
THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

W.A.No.1247 of 2025 and
C.M.P.No.9464 of 2025

D.Rajasekar

... Appellant/1st Respondent/Writ Petitioner

-VS-

1. Mrs.Loganayagi

... 1st Respondent/Review Petition/3rd Respondent

2. The Assistant Engineer,

Tamil Nadu Generation and Distribution Corporation Ltd.,
Operation and Maintenance, Kottakuppam,
Villupuram District.

... 2nd Respondent/2nd Respondent/1st Respondent

3. The Chairman-cum-Managing Director,

TANGEDCO, 10th Floor,
NPKRR Maligai,
No.144, Anna Salai,
Chennai-600 002.

... 3rd Respondent/3rd Respondent/2nd Respondent

4. Kumar @ Rajkumar

... 4th Respondent/4th Respondent/4th Respondent



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Prayer: Writ Appeal is filed under Clause 15 of the Letters Patent, seeking to set aside the order dated 27.03.2023 in Review Application No.40 of 2023 against W.P.No.35108 of 2016 in dismissing the writ petition and thus allow the appeal and to continue to allow the appellant the electricity connection, which is now being used by the appellant.

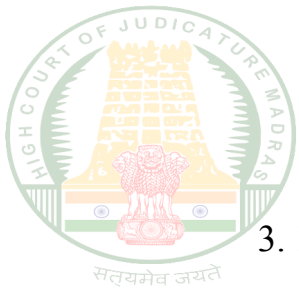
For Appellant : Mr.M.Gnanasekar
For R1 : Mr.A.Sriram
For R2 & R3 : Mr.V.Venkata Seshaiya

ORDER

(By J.Nisha Banu,J.)

This Writ Appeal is filed praying to set aside the order dated 27.03.2023 in Review Application No.40 of 2023 whereby, the learned Single Judge dismissed the W.P.No.35108 of 2016 and the order passed therein and allowed the Review.

2. Mr.A.Sriram, learned Caveator has entered appearance on behalf of the 1st respondent. Mr.V.Venkata Seshaiya, learned Standing Counsel takes notice for the respondents 2 and 3. Notice to R4 is dispensed with, as no adverse order is going to be passed against him.



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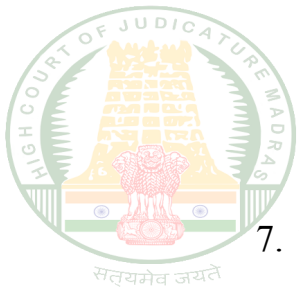
3. By consent, the Writ Appeal itself is taken up for final disposal at the

admission stage.

4. The order passed in W.P.No.35108 of 2016 dated 23.03.2017 has been sought to be reviewed by the 3rd respondent in the writ petition in Review Application No.40 of 2023 under Order 47 Rule 1 read with Section 114 of CPC.

5. It was contended by the Review Applicant that the facts recorded in paragraph 3 of the Order dated 23.03.2017 in W.P.No.35108 of 2016 is an error apparent on record since based on the mistaken facts submitted on behalf of the writ petitioner.

6. It was further contended by the Review Applicant that on the placing of wrong facts before the writ court that the exparte decree obtained has been set aside pursuant to the application filed by the writ petitioner in I.A.No.150 of 2016, the writ petition was allowed in favour of the writ petitioner. However, it was noticed by the learned Single Judge in the Review Application that I.A.No.150 of 2016 was dismissed and therefore, it is an error apparent on record.



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7. The learned Judge, in the review order, held that since O.S.No.62 of 2015 has been decreed in favour of the review petitioner, the order passed in Writ Petition has to be reviewed as the writ order was based on the wrong statement of the writ petitioner.

8. On the aforesaid findings, the Review Petition was allowed and the writ petition filed by the appellant herein/writ petitioner was dismissed. The doctrine of merger will operate herein as the order reviewed merges in the order by which the review is granted. In ***Bussa Overseas and properties Private Limited & another v. Union of India & another ((2016) 4 SCC 696)***, the Hon'ble Supreme Court of India held as under:

“29. Needless to state that when the prayer for review is dismissed, there can be no merger. If the order passed in review recalls the main order and a different order is passed, definitely the main order does not exist. In that event, there is no need to challenge the main order, for it is the order in review that affects the aggrieved party.”

9. In the judgment of Hon'ble Supreme Court, in the case of ***DSR Steel P Limited v State of Rajasthan (2012) 6 SCC 762***, the following is the observation:



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“The Second situation that one can conceive of is where a court or tribunal makes an order in a review petition by which the review Petition is allowed and the decree/order under review is reversed or modified. Such an order shall then be a composite order whereby the court not only vacates the earlier decree or order but simultaneous with such vacation of the earlier decree or order, passes another decree or order or modifies the one made earlier. The decree so vacated reversed or modified is then the decree that is effective for the purpose of a further appeal, if any, maintainable under law. “

10. In the light of the above judgments and the reasons stated supra, we find no infirmity in the order dated 27.03.2023, passed by the learned Single Judge in the Review Application. Accordingly, this Writ Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(J.N.B.J.) (M.J.R,J.)
03.06.2025

Index: Yes / No
Internet: Yes / No
ar/nvsri



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