



REV. APLC. (MD)Nos.52 & 53 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 29.04.2025

Pronounced on : .05.2025

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

AND

THE HONOURABLE MS.JUSTICE R.POORNIMA

REV. APLC. (MD)Nos.52 & 53 of 2023

and

C.M.P(MD)Nos.9719 & 9720 of 2023

REV. APLC. (MD)No.52 of 2023

M/s.Raju Spinning Mills (P) Ltd.,

by its Director, having Office at No.148/1,

Padikkasuvaithanpatti Village,

Vaithilingapuram Post,

Srivilliputhur Taluk,

Virudhunagar District.

... Review Applicant/1st Respondent

Vs.

1.The Executive Officer,

Arulmighu Vaithiyanathaswamy Temple,

Madavarvalagam,

Srivillipuhur,

Virudhunagar District.

... 1st Respondent/Appellant



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2.The Joint Commissioner,

Hindu Religious & Charitable Endowments,

Sivagangai.

... 2nd Respondent/ 2nd Respondent

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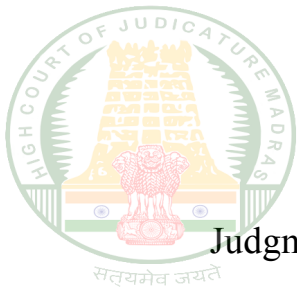
Hindu Religious & Charitable Endowments,

Sivagangai.

... 2nd Respondent/ 2nd Respondent

COMMON PRAYER : These two Review Applications filed under Order

47 Rule 1 and 2 of the Civil Procedure Code, against the common



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Judgment dated 09.03.2021 passed in Writ Appeal in W.A.(MD)Nos.106

WEB COPY & 107 of 2011 on the file of this Court.

For Review Applicant : Mr.G.Masilamani

Senior Counsel

for Mr.D.P.Sundararaj

For Respondents : Mr.P.Mahendran – for R1

Mr.D.Ghandiraj, - for R2

Special Government Pleader

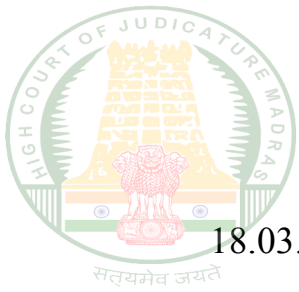
(In both the Review Applications)

COMMON ORDER

(Order of this Court was made by **R.POORNIMA, J.**)

These two review applications have been filed as against the common judgment passed in W.A.(MD)Nos.106 and 107 of 2021, dated 09.03.2021, by the 1st respondent in the two Writ Appeals, with regard to the observations made in the last paragraph.

2. The writ petitions in W.P.No.23436 of 2002 has been filed to quash the first respondent order in NEE.Mu.No.B3/318/2000 dated



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18.03.2002, in so far as the petitioner is concerned. W.P (MD) No.5640 of 2008 has been filed to quash the first respondent impugned order in Na.Ka.No.1987/2008/A3 dated 19.03.2008. The learned Single Judge allowed both the writ petitions on 24.02.2010. As against which, both the Writ Appeals have been filed. This Court also allowed both the Writ Appeals in W.A(MD)Nos.106 and 107 of 2011 by order, dated 09.03.2021. While allowing the two Writ Appeals, this Court negated the contention of the writ petitioners. Against which, both the review applications have been filed.

3.The learned counsel appearing for the Review Petitioner raised the following grounds:

1. The common judgment under review is contrary to the materials on record, the same suffers from error apparent on the face of the records and hence, the same requires to be reviewed.

2. The subject land in question was registered in the name of the Review applicant, under Patta No.399. The change of patta was made based on the opinion of learned Government Pleader. This will amount to violation of principles of natural justice and not valid in law.



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3. The Patta for the subject land, never stood in the name of the writ appellant, either before the settlement proceeding or after the settlement proceedings. It continuously stands in the name of the applicant herein, earlier in his predecessor-in-title viz., Periyasamy Nadar, after his death in the name of his heirs and thereafter in the name of the review applicant. The basic principle of *Audi Alterum partem* should be followed before effecting patta in the name of the writ appellant.

4. This Court, on a misconception of fact and law had wrongly held that the ryotwari patta ordered in the name of the appellant is correct based on the order of the settlement officer etc., forgetting for a moment that the resumption of the lands in question by the Government became final and hence the lands in question along with other lands ceased to be Inam lands.

5. The judgment relied on by the writ appellant's counsel will not apply to the facts of this case. This Court referred to the decision reported in **2006(7) SCC 470** is not quoted in the common order. **2015(8) SCC 519** has no application to the peculiar facts of this case. Since right, title and possession to immovable property are involved, the principles of natural justice are to be followed. Hence, the common judgement



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requires to be reviewed.

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6. Right to property is now a constitutional right. This right cannot be lightly taken away or deprived, without following the principles of natural justice. This aspect of the matter was over looked. Hence, the common judgment is to be reviewed.

7. The observation made by the Court in para 25 of the judgment is erroneous. It is submitted that even after resumption proceedings and settlement proceedings, the Revenue Patta stood in the name of Periyasamy Nadar under Patta No.399 then after his death, in the name of his heirs under Patta Nos. 399, 14, 864 and 404 and after purchase by the Review petitioner / 1st respondent under Patta No.399 and when such being the position, the Review petitioner has a valid and enforceable right to challenge the conditional order of Revenue patta transfer order issued by the Tahsildar vide proceeding Nee. Mu. No.B3/318/2000 dated 18.3.2002.

8. The finding rendered in LPA (1970(2) MLJ Page 129) is that the character of the land changed and the lands are no more Inam land. On account of the said finding rendered by the Division Bench, the present common order requires review, since the said finding is binding on the present bench, when admittedly no steps taken by the 1st respondent



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against the said finding till 2002 by moving the Tahsildar, which is under challenge. The said finding is binding on the present Hon'ble Division Bench also. The character of the land was already decided by the said Hon'ble Bench decision and it is binding on the parties to the present case. On the ground of *res-judicata* also the order is to be reviewed.

9. In the said reported decision, liberty was given to the 1st respondent therein / the present writ appellant, to agitate the claim in a civil suit. On account of the said observation, the writ appellant is not entitled in law and on facts, to approach the settlement officer for ryotwari patta. On account of this specific liberty given to the very writ appellant to approach civil Court only, the writ appellant cannot approach any other forum, except the civil Court.

10. On account of the limited liberty granted to the writ appellant, the settlement proceedings are to be ignored as non-est in law and not enforceable in law. Consequently the Writ Appeals ought to have been dismissed.

11. Scope and effect of section 48-B of Act II of 1927 was also not considered. It goes to the very root of the case. Hence, on account of lack of jurisdiction, the settlement proceedings are nullity. This aspect of the matter over looked.



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12. The lands in question and some other lands covered by T.D.No.

503 were resumed by the Collector on 21.07.1953 in exercise of the power under Section 44(B) of the Tamil Nadu Act 2 of 1927. He resumed both warams. This aspect of the matter was also not considered. It is an error apparent on the face of the records warranting review.

13. When the title to the subject property is under dispute based on the condition grant of revenue patta, the Joint Commissioner is not competent to issue notice under section 78(2) of the H.R. & C.E. Act as if the applicant herein is an encroacher. The facts of this case will establish that the applicant is not an encroacher and consequently the said proceeding is to be set aside.

14. The Assistant Settlement Officer's order and the Tribunal order in Review Application are same covered by same TD, for the both the lands involved in this writ and in the said civil proceedings. Hence the finding to the contra made in the common order paragraph No.33 is factually incorrect and hence, liable to be reviewed.

15. The said settlement officer's order as well as the order of Tribunal's order are marked as Exs.A2 and A3 respectively in the said suit. A perusal of the same will show that the lands involved in both the said proceedings are covered by the resumption order. Hence the finding



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in paragraph No.33 is contrary to the materials on record.

WEB COPY 16. The steps taken by the purchasers for developing their respective lands in both the set of cases (namely the writ and the suit) are more or less similar. Hence the ratio applicable to the lands concerned in respect of the civil courts will equally apply to lands covered in the present writ and writ appeals. There are no reasons to differentiate them. The law applicable to the lands concerned in the civil proceedings will equally apply to the writ and writ appeals. On account of this, the common order under suffers from error apparent on the face of the records and hence the order is liable to be reviewed.

17. The finding rendered in paragraph No.30 of the common order that the applicant herein is squatting on the property, without any right or title to the property, is not sustainable either in law or on facts. There is no need or necessity for the applicant to initiate any legal proceeding, since his title and possession was not questioned/disturbed by respondents or by any 3rd party for such a long time including the writ appellant that too after long time nearly after 28 years. These facts were failed to be noticed while allowing the writ appeals though this was highlighted and noted in paragraph No.22 of the common order under review.



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18. On account of the materials available in the present writ petition and the liberty given to the writ appellant by the Division Bench in L.P.A.Nos.21 to 26 of 1961 dated 24.08.1967 vide 1970(2) MLJ 129; (1969) 82 LW 271, the same liberty ought to have been given to the writ appellant by filing civil suit as referred to in the common judgment, by preserving rights of both parties.

19. The materials on record will establish that the writ petitioner is a person, interested person in the subject land and entitled to notice. Even an encroacher is entitled to notice before any order of removing/evicting him. The huge amount invested in the petitioner mills, the borrowings from the banks and the loss of employment to nearly 1,100 number of workers will spell out, that the writ petitioner is entitled to notice, as a person concerned and interested. On account of the order under review, the financial institutions will resort to recovery and in that event the applicant will be put to irreparable loss and hardship. These aspects were over looked on the simple basis that the writ petitioner is not entitled to notice. Such a reason is not sustainable on the facts and circumstances of this case.

20. The undertaking given by the writ appellant was recorded in the impugned proceedings of the Tahsildar. On account of the said under

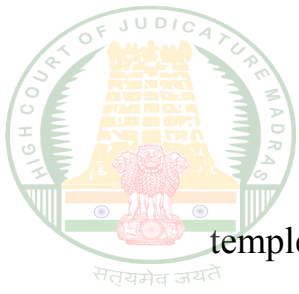


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taking, liberty could have been given to the writ appellant to adjudicate the claim for title etc. This is due to the fact that the settlement proceeding do not confer title and the same is to be decided by the civil court. Settlement proceeding is not bar also for approaching the civil court. The law on this aspect is well settled vide 1995(4) SCC 156. On account of this, the common order is to be reviewed.

4. The learned counsel appearing for the 1st respondent argued that the review petitions are not maintainable as there is no mistake or error apparent on the face of order passed by the Division Bench in W.A (MD) Nos.106 and 107 of 2011 and hence, liable to be dismissed.

5. The 1st respondent further argued that the respondent temple is one of the ancient temple in Tamil Nadu, the land comprised of 7.69 acres of land in survey No.148/1, 2, 3 and 4 situated in Padikasuvaithanpatti Village, Srivilliputhur, Inam consisting of both the waram attached to the temple officers, was granted to the service providers of temple. It is not a permanent grant for any individual, it was granted for various service rendered to the temple officers, namely Sthalasthars and others for various service rendered in the 1st respondent



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temple. It was not grant to a particular individual or to benefit to a specified person. But it was permanent grant in favour of first respondent.

6. Subsequently, the Settlement Officer, Kovilpatti conducted enquiry and granted Ryotwari patta in favour of the temple by an order dated 26.02.1974 in SR.Mi.20/Sri/68. In the settlement order it was observed that the Vendor of the petitioner's viz., Periyaswamy Nadar was only an alienee, purchased lands from the service holders and his request for grant of patta has been rejected. His legal heirs filed appeal before the Special Tribunal for abolition in Revenue Appeal No.103 of 1974, and the same was dismissed by confirming the order of the Settlement Officer, Kovilpatti observing that the alienation of the land under Title Deed 503, consisting of both the warams by the sons alienee from the service holders have been found to be illegal and void. The revision petitioner's company who is a subsequent purchaser cannot claim that they are bonafide purchaser. The service holders have no alienable right in respect of the subject matter of Inam lands. Purchaser from the service holders have no right to claim right in respect of Inam lands. The temple alone has absolute right over the property.



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7. He further argued that the settlement patta has been granted by the Government, subsequent to the resumption from the service holder, re-grant the same to the temple, which was challenged, by the petitioner's vendor, and the same was dismissed. Thereafter, Patta was granted in favour of the appellant on 18.03.2002, by the Revenue Officials, which was challenged by the review petitioner in W.P.No.23436 of 2022 and the same was dismissed.

8. The first respondent issued notice under section 78(2) of the Tamil Nadu Hindu Religious and Charitable Endowment act, 1959 to the premises of the petitioner and the same was challenged by the review petitioner in W.P(MD)No.5640 of 2008, and the same was also dismissed. The review petition filed by the review petitioner has no merit but should be dismissed as there is no error apparent on the face of record.

9. The Special Government Pleader appearing for the 2nd respondent argued that the sale deed executed by the predecessor-in-title of the review petitioner has already been cancelled by the Government. Therefore, the purchaser has derived title from a person who had title, no



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valid title and hence, the review petitioner cannot claim any right through such transaction and these review petitions are liable to be dismissed.

10. Heard the learned counsel on either side and perused the materials available on record.

11. In W.P.No.23436 of 2002 filed by the revision petitioner against the proceedings of Tahsildars, Srivilliputhur in Nee.Mu.B3/318/2000 dated 18.03.2002, with prayer to quash the order as illegal.

12. In W.P.No.5640 of 2008, filed by the revision petitioner against the notice issued under Sections 78 and 79 of Tamil Nadu Hindu Religious Development Act in Na.Ka.No.1987/A3/2008 dated 19.03.2018 with prayer to quash the same as abuse of process of law under Section 78(2) of HR and CE Act.

13. Both writ petitions were allowed on 24.02.2010 against which the temple filed writ appeals in W.A(MD)Nos.106 and 107 of 2011, which were allowed in favour of the temple and thereby set aside the

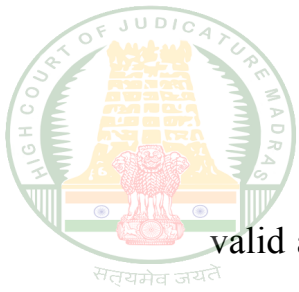


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order passed by the learned Single Judge in W.P.No.23436 of 2002 and W.P.No.5640 of 2008, against which the review petitions are filed.

14. The main ground argued by the review petitioner counsel is that the character of the land was changed, soon after the Collector resumed the property on 21.07.1953 in exercise of the power under Section 44(B) of the Tamil Nadu Act 2 of 1927. He resumed both warams as the service providers violated the condition. The temple is not the owner of the property, and the patta granted in their favour is not valid.

15. He further argued that patta for the subject land, never stood in the name of writ appellant, either before the settlement proceedings or after the settlement proceedings. It continuously stands in the applicant herein, earlier in his predecessor-in title and thereafter, in the name of review applicant. The Hon'ble Court in a misconception of fact had held that the Ryotwari patta granted in favour of the temple is correct based in the order of the Settlement Officer given resumption of property by the Collector the revenue patta stood in the name of Periyaswamy Nadar under Patta No.399 then after his death in the name of his heirs are after purchase in the name of the review petitioner, the review petitioner has a



valid and enforceable right to challenge the conditional order of revenue patta transfer dated 18.03.2002.

16. The learned counsel appearing for the review petitioner relied upon the following judgments in ***Pratapari N. Kothari vs. John Braganza*** reported in ***1999 (4) SCC 403***, in which the Hon'ble Supreme Court has held as follows:

“11. We have already extracted the summary of conclusions arrived at by the learned Single Judge of the High Court. That shows that his conclusions were vitiated by his view that the appellant had title and possession followed title. It is quite obvious that the learned Single Judge had not taken note of the principle of possessory title or the principle of law that a person who has been in long continuous possession can protect the same by seeking an injunction against any person in the world other than the true owner. It is also well settled that even the owner of the property can get back his possession only by resorting to due process of law.”

17. In ***Sushil Kumar Mehta Vs. Gobind Ram Bohra*** reported in ***1990 (1) SCC 193***, in which the Hon'ble Supreme Court has held as follows:



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26. *Thus it is settled law that normally a decree passed by a Court of competent jurisdiction, after adjudication on merits of the rights of the parties, operates as res judicata in a subsequent suit or proceedings and binds the parties or the persons claiming right, title or interest from the parties. Its validity should be assailed only in an appeal or revision as the case may be. In subsequent proceedings its validity cannot be questioned. A decree passed by a Court without jurisdiction over the subject matter or on other grounds which goes to the root of its exercise or jurisdiction, lacks inherent jurisdiction. It is a coram non judice. A decree passed by such a Court is a nullity and is non est.*”

18. In ***Hasham Abbas Sayyad Vs. Usman Abbas Sayyad and Others*** reported in **2007 (2) SCC 355**, in which the Hon'ble Supreme Court has held as follows:

“22.The core question is as to whether an order passed by a person lacking inherent jurisdiction would be a nullity. It will be so. The principles of estoppel, waiver and acquiescence or even res judicata which are procedural in nature would have no application in a case where an order has been passed by the Tribunal/Court which has no authority in that behalf. Any order passed by a court without jurisdiction would be coram non judice



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being a nullity, the same ordinarily should not be given effect to. [See Chief Justice of Andhra Pradesh and Another v. L.V.A. Dikshitulu and Others - AIR 1979 SC 193 & MD Army Welfare Housing Organisation v. Sumangal Services (P) Ltd. (2004) 8 SCC 619].”

19. In ***Board of Control for Cricket in India and another vs. Netaji Cricket club and others*** reported in **(2005) 4 SCC 741**. The Hon’ble Supreme Court held that review to invoke doctrine of ‘*Actus curiae neminem gravabit*’ word sufficient reason order 47 rule 1 are wide enough to include a misconception of fact or law by a Court or even advocate.

20. In ***State of Orissa vs. Dr. Binapani Dei and others*** reported in ***AIR 1967 SC 356***, in which the Hon’ble Supreme Court held that,

“12.We think that such an enquiry and decision were contrary to the basic concept of justice and cannot have any value. It is true that the order is administrative in character, but even an administrative order which involves civil consequences, as already stated, must be made consistently with the rules of natural justice after informing the first respondent of the case of the State, the evidence in support thereof and after giving an opportunity to the first



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respondent of being heard and meeting or explaining the evidence. No such steps were admittedly taken, the High Court was, in our judgment, right in setting aside the order of the State”.

21. In ***S. Nagaraj v. State of Karnataka***, reported in ***1993 Supp (4) SCC 595***, The Hon'ble Supreme Court held that review means re-examination, Mistake is a valid reason to re-call an order, and it is a constitutional and legal obligation to set it right.

22. In ***Green View Tea & Industries v. Collector, Golaghat*** reported in ***(2004) 4 SCC 122***, the Hon'ble Supreme Court held that the Material evidence on record not taken into account in the judgment sought to be reviewed. Held, constituted error on the face of the record.

23. Review jurisdiction is very limited only for:

Error apparent on the face of record,
New evidence not available earlier despite due diligence,
Or any other sufficient reason,
One cannot are you the case, in interview as it is not an
appeal in disguise.



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24. The learned counsel appearing for the 1st respondent relied upon the following judgments in ***Thungabhadra Industries Ltd., vs. Govt. of A.P.***, reported in ***AIR 1964 SC 1372***, in which the Hon'ble Supreme Court has held as follows:

“11..... A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected, but lies only for patent error. We do not consider that this furnishes a suitable occasion for dealing with this difference exhaustively or in any great detail, but it would suffice for us to say that where without any elaborate argument one could point to the error and say here is a substantial point of law which stares one in the face, and there could reasonably be no two opinions, entertained about it, a clear case of error apparent on the face of the record would be made out. No questions of fact were involved in the decision of the High Court in T.R.Cs 75 to 77 of 1956. The entire controversy turned on the proper interpretation of Rule 18(1) of the Turnover and Assessment Rules and the other pieces of legislation which are referred to by the High Court, in its order of February 1956 : nor could it be doubted or disputed that these were substantial questions of law. In the circumstances therefore, the submission of the appellant that the order of September 1959 was vitiated by “error apparent” of the kind envisaged by Order 47 Rule 1 of the Civil Procedure Code when it stated that “no substantial



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question of law arose” appears to us to be clearly well-founded. Indeed, learned counsel for the respondent did not seek to argue that the earlier order of September 1959 was not vitiated by such error.

25. In ***Parsion Devi v. Sumitri Devi***, reported in **(1997) 8 SCC 715**, in which the Hon'ble Supreme Court has held as where, this Court ruled that Under Order XLVII Rule 1 Code of Civil Procedure, a judgment may be open to review inter alia if there is a mistake or an error apparent on the face of the record. 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 the record justifying the Court to exercise its power of review.

26. In ***Lily Thomas and Others v. Union of India and Others***, reported in **(2000) 6 SCC 224**, in which the Hon'ble Supreme Court has held as follows:

“Constitution of India - Art. 137-Review- Supreme Court powers of Review, held, is not an appeal in disguise - Its purpose is to ensure that justice is not defeated and that errors leading to miscarriage of justice are remedied Power of review cannot be exercised merely to substitute a point of view Errors requiring review are those which are



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patent and apparent from the face of the record and are errors of inadvertence and not those that need to be fished out Review may be called for where new and important matter has been discovered, which after exercise of due diligence was not within the knowledge of petitioners at the time of the passing of the judgment under review - Supreme Court Rules, Or. XL - Civil Procedure Code, 1908, Or. 47-Words and Phrases - "Any other sufficient reason", "review", "error apparent"

27. In *Arun Dev Upadhyaya vs. Integrated Sales Service Ltd. and Others* reported in (2023) 8 SCC 11 in which the Hon'ble Supreme Court has held as follows :

“9. A plain reading of the above provisions in uncertain terms states that the power to review can be exercised only upon existence of any of the three conditions expressed therein. 'A mistake or an error apparent on the face of the record' is one of the conditions. It is only on this ground that review has been preferred. The above phrase has been consistently interpreted by authoritative pronouncement of this Court for decades. A three Judge Bench of this Court comprising of Hon'ble Sri S.R. Das, C.J., M. Hidayatullah and Sri K.C. Das Gupta, J.J. in the case of Satyanarayan Laxminarayan Hegde and Ors. v. Millikarjun Bhavanappa Tirumale AIR 1960 SC 137,



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discussed the scope of the phrase 'error apparent on the face of record'. The challenge before this Court in the said case was the judgment of the High Court on the ground whether it suffers from an error apparent on the face of the record. The High Court had issued a writ of certiorari and had quashed order of the Tribunal and restored that of the Mamlatdar. In paragraph 8 of the report, the issue which was to be considered is reflected. The same is reproduced hereunder:

8. The main question that arises for our consideration in this appeal by special leave granted by this Court is whether there is any error apparent on the face of the record so as to enable the superior court to call for the records and quash the order by a writ of certiorari or whether the error, if any, was "a mere error not so apparent on the face of the record", which can only be corrected by an appeal if an appeal lies at all."

28.(1) The review jurisdiction refers to the power of the Court to re-examine its own previous judgment or orders which distinct from, appellate jurisdiction, which involves a higher Court to review the judgement of lower Court.



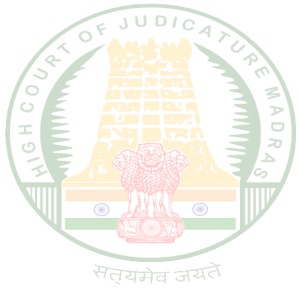
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2)The review petition are typically allowed if there is an error apparent on the face of the record, new and material evidence has been discovered, or there is a grate mistake.

3)However it is not an unlimited power and is typically limited. The primary purpose of review jurisdiction is to ensure that justice is served and to correct errors that may have occurred in the original judgment in order to avoid miscarriage of justice.

29. In the writ appeal order in paragraph Nos.8 to 10 the Division Bench clearly discussed about invalid sale deed obtained by the predecessor-in-title Tr.Periyaswamy Nadar, from the service holder who had no transferable right.

30. The suit in O.S.No.5 of 1995, filed by the said Periyaswamy Nadar for declaration that the suit lands were Ryotwari lands belonging to them, and in the alternative for a declaration that the said lands comprises only the melwaram. The suit was dismissed by the District Munsif Court, Srivilliputhur and in the judgement and decree, the trial Judge held that Periyaswamy Nadar, was not entitled to any relief.



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31. Against which an appeal was preferred, which was also dismissed. The aggrieved person filed LPA.No. 21 of 1967 before this Court, which was also dismissed and thereby confirmed the judgement and decree of the Trial Judge, by holding that Periyaswamy Nadar has no right over the lands which is the subject matter of the writ petitions.

32. The review petitioner relied upon a patta, generally patta is a document issued by the revenue department to show that the person in position for purpose of tax, it does not confer ownership. If the title from which the Patta is derived as invalid, then the patta has no legal sanctity.

33. The review petitioner purchased the property from the legal heirs of the said Periyaswamy Nadar who had no legal authority to convey the property. Only a valid title deed establishes legal ownership. In the absence of such a title deed, ownership cannot be established. A patta is not a legal title deed, it is merely a revenue record and does not constitute a legal right. Furthermore, the revision petitioner has not produced any patta standing in their name, but has only submitted property tax receipts, which does not amount to patta.



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34. It is pertinent to note that the review petitioner claims to have purchased the property in the year 1994 and 1996, from the legal heirs of Periyasamy Nadar, who had been declared an alienee, purchased the property from the service providers of the temple who had sold it in violation of condition of the Inam granted to them. As a result, the Collector of Sivagangai, resumed the property, as the same was in violation of the condition imposed in the Inam grant, and the Periyaswamy Nadar lost his title as the land purchased by him resumed by the authorities due to violation of the Inam grant condition. Subsequently, the said lands were settled in favour of the 1st respondent by way of proceedings of the Settlement Officer, dated 26.02.1974, against which an appeal was filed by the legal heirs of Tr.Periyaswamy Nadar and others in R.A.Nos.93, 103, 135, 147, 153, 176, 182 of 1974 and the same was also dismissed on 28.08.1975. However, no second appeal was filed by the legal heirs of the said Periyaswamy Nadar, in accordance with the applicable legal provisions, thereby rendering the proceedings of the Settlement Officer is final and binding on them.

35. It became evident that Periyasamy Nadar had no title, right or interest over the property. The revision petitioner purchased the land



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from the legal heirs of Periyasamy, despite the fact that the property had

already been settled in favour of the temple as early as 1974.

Significantly, this purchase was made nearly two decades after the settlement proceedings and as soon as the revision petitioner acquires no valid title to the property and has no right to claim ownership.

36. The learned counsel for the review petitioner further argued that, the proceedings for resumption were referred to have been initiated under Section 44 of Madras Hindu Religious and Charitable Endowments Act, 2 of 1927, corresponding to section 35 in Act 19 of 1951 and corresponding to Section 41 in Act 22 of 1959. However, neither the Collector passed an order for re-grant of the land to the temple nor the temple sought for grant till date from the Collector. The Division Bench ought to appreciate that the grant of Ryotwari patta to the temple was without jurisdiction. Since the land was not an Inam land in the year 1963 when the Act 30 of 1963 was enacted. Consequently, the revenue patta granted on the basis of Ryotwari patta granted by the settlement on 26.02.1974 after 21 years, after resumption of the land by the Collector was untenable and *ab-initio* void.



37. Section 41 of Tamil Nadu Hindu Religious and Charitable

Endowment Act 1959, provides as follows:

“41. Resumption and re-grant of inam granted for performance of any charity or service.

(1) Any exchange, gift, sale or mortgage and any lease for a term exceeding five years of the whole or any portion of any inam granted for the support or maintenance of a religious institution or for the performance of charity or service connected therewith or of any other religious charity and made, confirmed or recognised by the Government shall be null and void:

Provided that any transaction of the nature aforesaid (not being a gift) may be sanctioned by the Government as being necessary or beneficial to the institution.

Explanation. - Nothing contained in this sub-section shall affect or derogate from the rights and obligations of the landholder and tenant in respect of any land which is ryoti land as defined in the [Tamil Nadu] Estates Land Act, 1908 ([Tamil Nadu] Act I of 1908).

(2)(a) The Collector may, on his own motion, or on the application of the trustee of the religious institution or of the Commissioner or of any person having interest in the institution who has obtained the consent of such trustee or the Commissioner, by order, resume the whole or any part of any such inam, on one or more of the following grounds, namely:-



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(i) that except in the case referred to in the proviso to sub-section

(1), the holder of such inam or part or the trustee of the institution has made an exchange, gift, sale or mortgage of such inam or part or any portion thereof or has granted a lease of the same or any portion thereof for a term exceeding five years, or

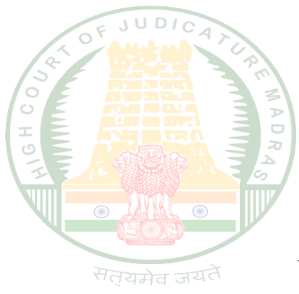
(ii) that the religious institution has ceased to exist or the charity or service in question has in any way become impossible of performance, or

(iii) that the holder of such inam or part has failed to perform or make the necessary arrangements for performing, in accordance with the custom or usage of the institution, the charity or service for performing which the inam had been made, confirmed or recognized as aforesaid, or any part of the said charity or service, as the case may be.

When passing an order under this clause, the Collector shall determine whether such inam or the inam comprising such part, as the case may be, is a grant of both the melvaram and the kudivaram or only of the melvaram:

Provided that, in the absence of evidence to the contrary, the Collector shall presume that any minor inam is a grant of both the melvaram and the kudivaram.

(b)Before passing an order under clause (a), the Collector shall give notice to the trustee, to the Commissioner, to the inamdar concerned, to the person in



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possession of the inam where he is not the inamdar and to the alienee, if any of the inam; the Collector shall also publish a copy of such notice in such manner as may be prescribed and such publication shall be deemed to be sufficient notice to every other person likely to be affected by such order; and the Collector shall hear the objections, if any, of the persons to whom such notice is given or deemed to be given and hold such inquiry as may be prescribed.

Explanation. - *Where only a part of the inam is affected, notice shall be given under this clause to the holder of such part as well as to the holder or holders of the other part or parts, to the person in possession of every such part where he is not the holder thereof, and to the alienee, if any, of every such part; and the objections of all such persons shall be heard by the Collector.*

(c)A copy of every order passed under clause (a) shall be communicated to each of the persons mentioned in clause (b), and shall also be published in the manner prescribed.

(d)(i)Any party aggrieved by an order of the Collector under clause (a) may appeal to the District Collector within such time as may be prescribed, and on such appeal, the District Collector may, after giving notice to the Commissioner and each of the persons mentioned in clause (b) and after holding such inquiry as may be prescribed, pass an order confirming, modifying or



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cancelling the order of the Collector.

(ii) The order of the District Collector on such appeal, or the order of the Collector under clause (a) where no appeal is preferred under sub-clause (i) to the District Collector within the time prescribed shall be final:

Provided that where there has been an appeal under sub-clause (i) and it has been decided by the District Collector or where there has been no appeal to the District Collector and the time for preferring an appeal has expired, any party aggrieved by the final order of the District Collector or the Collector, as the case may be, may file a suit in a Civil Court for determining whether the inam comprises both the melvaram and the kudivaram or only the melvaram. Such a suit shall be instituted within six months from the date of the order of the District Collector on appeal where there has been an appeal under sub-clause (i), or from the date of the expiry of the period prescribed under sub-clause (i) for an appeal to the District Collector where there has been no such appeal.

(e) Except as otherwise provided in clause (d), an order of resumption passed under this section shall not be liable to be questioned in any Court of Law.

(f) Where any inam or part of any inam is resumed under this section, the Collector or the District Collector, as the case may be, shall by order, re-grant such inam or part-

*(i) as an endowment to the religious institution concerned,
or*



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(ii)in case of resumption on the ground that the religious institution has ceased to exist or that the charity or service in question has in any way become impossible of performance, as an endowment for such religious, educational or charitable institution as the Commissioner may recommend.

(g)The order of re-grant made under clause (f) shall, on application made to the Collector within the time prescribed, be executed by him in the manner prescribed.

(h)Nothing in this section shall affect the operation of section 40.

38. The learned counsel also referred the resumption and re-grant Rules, 6 to 10 of the Resumption and Re-Grant of Inam Rules.

39. It is true that as per Section 41 of Tamil Nadu Hindu Religious and Charitable Endowment Act 1959, the Collector may on his own motion or on the application of the trustee of the religious institution or of the commissioner or of any person having interest in the institution would obtain the consent of such trustee or the commissioner by order resume the whole or any part of any such inam anyone waram more of the grounds mentioned in sub-Section 2(i) to (iii) of Section 41 of the said Act.



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40. It is pertinent to note that the alienees filed suits seeking declaration, of their title which was dismissed, the appeal and LPA filed against the dismissal were also dismissed. All the proceedings having concluded in the year 1967. In the meantime, Tamil Nadu Inam Estates (abolition, and conversion into Ryotwari) Act 27 of 1963 came to effect on 12.12.1963.

41. The counsel appearing on behalf of the 1st respondent argued that, number of temple authorities like the 1st respondent approached Settlement Officer being the competent authority and obtained patta. The Settlement Officer is being the competent authority had the jurisdiction to grant patta.

42. As per Section 41 of the Tamil Nadu Hindu Religious and Charitable Endowment Act 1959, provides the Collector may re-grant of Inam on the application of the trustee of the religious institution or of the Commissioner or any person having interest in the institution who has obtained the consent of such trustee or the Commissioner by order resume the whole or any part Inam on condition, seen.



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43. However the Section confers a discretionary power, it states that the Collector may do so, but it does not impose a mandatory duty as he must do so.

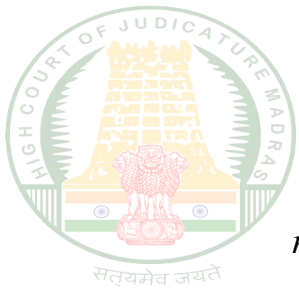
44. Furthermore once the land is resumed by the Government, it become the exclusive prerogative right of the Government to grant or assign the lands to any person under appropriate proceedings and no individuals has the right to question such an Act.

45. According to the review petitioner once the land was resumed by the Collector, it lost its original character and can no longer be classified as Inam land. Consequently the Settlement Officer had no authority to grant patta of the lands under the provisions of the Inam abolition and Ryotwari Settlement Act.

46. Chapter II Section 3 of the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963 deals with the vesting of minor Inam etc., in Government,

“.....

(b) every minor Inam land, including all communal lands, and Poromboke, waste lands, pasture lands, forests,



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mines, and minerals, quarries, reverse and streams shall stand transferred to the government and vest in them, free of all encumbrances branches and all other enactments applicable to ryotwari lands shall apply to the minor inam;

c) all the rights and interest created by the inamdar in or over his inam before the appointed day, shall, as against the government, cease and determine

d) the government may, after removing any obstruction that may be offered, fourth with take possession,

.....

g) any right and privileges, which may have accrued in the minor inam to any to any person before the appointed day against the inamdars shall cease and determine, and shall not be enforceable against the government or against the inamdar and every such person shall be entitled only to such rights and privileges as recognised or conferred on him, by or under this act is vested with the Government under the Tamil Nadu Minors Inam (Abolition, and Conversion into Ryotwari) (amendment) act 1971, (Tamil Nadu Act, 26 of 1971).

47. This clarifies that every minor Inam lands, including the categories of the land referred under chapter II, categories of land Section 3 of the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963 is subject to Ryotwari settlement under the



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provisions of the Act.

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48. As for as power of the Settlement Officer is concerned under Section 5 of Tamil Nadu Inam Estates (Abolition and conversion into Ryotwari) Act, 1963, provides that, as soon as maybe, after the publication of this Act in the Fort St. George's gazette (now the Tamil Nadu Government Gazatte), the Government shall appoint Settlement Officer to carry out survey and settlement operation in respect of all mines and introduce Ryotwari settlement therein.

49. It is admitted that the Government who granted Inam lands to the temple service provider, resumed the land due to violation of condition attached to the grant. The Authority to grant or deny Ryotwari patta is solely rests with the Settlement Officer, who is authorised by the Government. Once the land was resumed by the Government, no individual has the right to question the grant as it was carried only in accordance with the procedure prescribed under the law.

50. In his order the Settlement Officer, observed that relevant documents were furnished by the Devasthanam/1st respondent in support

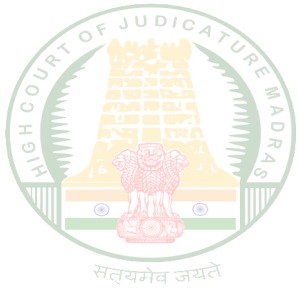


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of its claim, such as fair register, copy of judgement, pay acquaintance register, and lease deed etc. Being satisfied with the documentary evidence produced by the temple authorities, the Settlement Officer, accepted the claim and granted Ryotwari patta.

51. The persons allegedly purchased the property, filed an appeal, but the claim was dismissed. After lapse of 20 years, the review petitioner, claims to have purchased the property from the legal heirs of the Periyaswamy Nadar, who had declared as alienee. However, they do not have legal standing to question, the proceedings of the Settlement Officer. We do not find any error on the face of record in the Review Application in W.P.No.23436 of 2002 and deserved to be dismissed.

52. As far as W.P.(MD)No.5046 of 2011 is concerned, the Division Bench categorically held that, a show cause notice issued by the first respondent under Section 78(2) of Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, calling upon him as to why encroachment cannot be removed. Without giving any reply, the review petitioner rushed to the Court, challenging the same.



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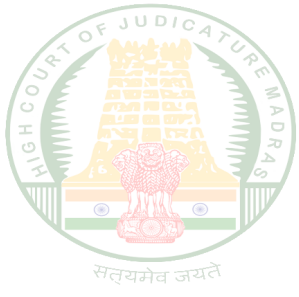
53. As the right and title of the temple is already decided in LPA and in W.P.No.23436 of 2002, the 1st respondent has to follow the procedure in the manner known to law and the review petitioner has no right to challenge the same and hold that the notice under Section 78(2) is legally sustainable. We do not find any reason to review the order passed by this Court in the appeals. We constrained to observe that the review applications are in the nature of canvassing the issues already discussed and held against them. Therefore, these petitions are liable to be dismissed.

54. In the result, both the Review Applications stand dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

(G.J., J.) & (R.P., J.)
.05.2025

Index : Yes / No
NCC : Yes / No

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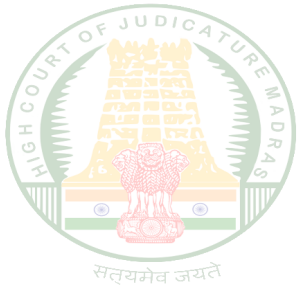
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To

- 1.The Joint Commissioner,
Hindu Religious & Charitable Endowments,
Sivagangai.
- 2.The Section Officer,
ER/VR Section,
Madurai Bench of Madras High Court,
Madurai.



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DR.G.JAYACHANDRAN J.
AND
R.POORNIMA, J.

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.05.2025