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REVIEW APPLICATION CIVIL (MD) No.7 of 2025

MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.01.2025

CORAM

THE HONOURABLE Mr.JUSTICE **C.KUMARAPPAN**

REVIEW APPLICATION CIVIL (MD) No.7 of 2025

The Deputy Registrar of Cooperative Societies,
1st Cross Street,
Shanmugapuram, Palani
Now the office held at
No.11/223, Raja Nagar,
Lakshmipuram, Palani-624 601.

... Review Petitioner

Vs

D.Imayavaramban

... Respondent

Prayer:- Review Application is filed under Order 47 Rule 1 & 2 read with
Section 114 of Code of Civil Procedure against the order dated 05.09.2023
made in CRP(MD) No.1530 of 2018 passed by this Court.

For Petitioner

: Mr.V.Om Prakash
Government Advocate



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ORDER

The instant Review Application has been filed against the order passed in CRP(MD) No.1530 of 2018 dated 05.09.2023. The said Civil Revision Petition has arisen against the order of the Principal District Court, Dindigul passed in an appeal preferred under Section 152(1) of the Tamil Nadu Co-Operative Societies Act. This Court has confirmed the findings rendered by the Principal District Court.

2. Heard Mr.V.Om Prakash, learned Government Advocate appearing for the Review Petitioner.

3.The learned Government Advocate has raised numerous grounds referring the documents relied before the Enquiry Authority and before the Co-Operative Tribunal. It is obvious that the Review application is not the substitute for the appeal. The main contention of the learned Government Advocate is that while adjudicating the Civil Revision Petition, the Court has failed to appreciate the factum of responsibility of the respondent vests upon him by virtue of Section 33 of the Tamil Nadu Co-Operative Societies Act. Accordingly, it is his submission that there is an inherent duty for the



respondent to manage the affairs of the Society in accordance with the Act, Rules and by-laws. It is the further contention of the learned Government Advocate that the above ground was not raised by their earlier counsel. Therefore, the ground raised would come within the contours of discovery of new and important ground.

4. Before we delve into the above ground, this Court deems it appropriate to rely upon the judgment of the Hon'ble Supreme Court in ***Perry Kansagra v. Smriti Madan Kansagra*** reported in ***(2019) 20 SCC 753***, wherein, the Hon'ble Supreme Court after elaborately considering the various precedents arising under Order 47 Rule 1 of CPC, had summed up the principle in paragraph 15.1 and the same is extracted hereunder for ready reference.

“15.1. Principles relating to exercise of review jurisdiction can be summed up as under:-

(i) Review proceedings are not by way of appeal and have to be strictly confined to the scope and ambit of Order 47 Rule 1 CPC.

(ii) Power of review may be exercised when some mistake or error apparent on the fact of record is found. But error on the face of record must be such an error which must strike one on mere looking at the record and would not require any long-drawn process of reasoning on the points where there may conceivably be two opinions.

(iii) Power of review may not be exercised on the ground that the



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decision was erroneous on merits.

(iv) Power of review can also be exercised for any sufficient reason which is wide enough to include a misconception of fact or law by a court or even an advocate.

(v) An application for review may be necessitated by way of invoking the doctrine actus curiae neminem gravabit."

5. While perusing the order of this Court, this Court has relied Section 87 of the Tamil Nadu Co-Operative Societies Act and has held that, unless there was willful negligence, no recovery could be effected. Even if the Court did not consider the ground urged by the petitioner herein at the best, the order of this Court could only be termed as erroneous on merits, and could not be brought under the review jurisdiction.

6. The learned Government Advocate would also submit that this aspect was not argued by their previous counsel. This Court is curious to know as to how the present counsel knew the same. The very filing of the Review application, by another Government Advocate without assigning any reason as to why such application has not been filed by the same Government Advocate can also be a ground to reject this petition. In a similar circumstances, the Hon'ble Supreme Court has held that filing of a Review Application by a different counsel has to be deprecated. In this regard,



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it is useful to refer the judgment of the Hon'ble Supreme Court in ***Tamil Nadu Electricity Board Vs. Raju Reddiar*** reported in ***(1997) 9 SCC 736***. In the present case, there are no apparent error on the face of the records so as to invoke the Review jurisdiction, and that the ground raised by the learned counsel for the petitioner will not come within the contours of the Review jurisdiction defined under Order 47 Rule 1 of CPC.

7. As such, the present Review Petition is devoid of merits. Accordingly, this Review Petition is dismissed. No costs.

29.01.2025

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C.KUMARAPPAN, J.

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