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**(2011) 09 MAD CK 0070**

**In the Madras High Court**

**Case No : Review Application No. 44 of 2011**

G. Radhakrishnan

APPELLANT

Vs

The Special Tahsildar (LA)

RESPONDENT

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**Date of Decision :** 19-09-2011

**Acts Referred:**

**Citation :** (2011) 09 MAD CK 0070

**Hon'ble Judges :** K. Chandru, J

**Bench :** Single Bench

**Advocate :** K.R. Krishnan, for the Appellant; R.M. Muthukumar, GA, for the Respondent

**Final Decision :** Dismissed

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## **Judgement**

K. Chandru, J.—These two review petitions were filed by the respective Petitioners challenging the common judgment made in A.S. Nos.

1051 of 2003 and 996 of 2004, dated 29.10.2010. The review Petitioner in Review Application No. 44 of 2011 was the Appellant in A.S. No.

1051 of 2003 and the review Petitioners in Review Application No. 51 of 2011 were the Appellants in A.S. No. 996 of 2004. this Court heard

the appeals along with the appeal filed by the Acquisition Officer in A.S. Nos. 169 and 639 of 2005. All the four appeals were disposed of by a

common judgment dated 29.10.2010. this Court had upheld the order passed by the LAOP Court fixing the compensation payable to the

Petitioners at Rs. 566/- per cent though they claimed Rs. 2000/- per cent before the Labour Court. Before this Court when they filed appeals, they

had restricted their claim at Rs. 1300/- per cent and after adjusting Rs. 566/- per cent, they had paid the court fee only for Rs. 734/- per cent.

Now that the order of the LAOP Court has been upheld, the Petitioners have come to this Court to review the judgment.

2. In the grounds, it was contended that there was an error apparent on the face of the record, i.e., this Court did not consider the scope of the

witness C.W.3 and the xerox copy of the sale deed marked as Ex. C.5. In the earlier round of litigation when this Court remanded the matter only

for the purpose of production of the data sale deed and when that data sale deed was sought to be let in as an additional evidence, that was not

taken note of. The trial court had fixed the award at Rs. 1.25 per sq.ft. on the basis of evidence of C.W.2, but neglected to consider Rs. 3/- per

sq.ft on the basis of C.W.5.

3. But, a perusal of the order clearly shows that this Court took note of all the relevant considerations including the ground taken in the

memorandum of appeal and also had considered the claim of the Petitioners on the high side. On the basis of such isolated exemplar, no

compensation can be fixed. this Court is not inclined to review the order on the grounds raised by the Petitioners.

4. In this context, it is necessary to refer to a judgment of the Supreme Court in Des Raj (Deceased) through L.Rs. and Others Vs. Union of India

(UOI) and Another, , wherein in paragraph 14, it was observed as follows:

14. Admittedly, the Appellants in these cases did seek for reference u/s 18 of the Act; filed appeals before the High Court and after the High Court

delivered the judgment on 11-10-1984, did not challenge the same. The applications were not made u/s 28-A of the Act within the prescribed

period of limitation also in these cases. At any rate, the grounds raised in the review applications were not grounds which could be accepted to

review or modify the judgment of the High Court dated 11-10-1984. In our view, the High Court was right in dismissing their review applications

for the reasons stated in the impugned judgments.

5. Further, the scope of review under Order 47 Rule 1 came to be considered by the Supreme Court in a subsequent judgment in The State of

West Bengal and Others Vs. Kamal Sengupta and Another, and in paragraph 18, the Supreme Court had observed as follows:

18. Since the Tribunal's power to review its order/decision is akin to that of the civil court, statutorily enumerated and judicially recognised

limitations on the civil court's power to review the judgment/decision would also apply to the Tribunal's power u/s 22(3)(f) of the Act. In other words, a tribunal established under the Act is entitled to review its order/decision only if either of the grounds enumerated in Order 47 Rule 1 are available. This would necessarily mean that a tribunal can review its order/decision on the discovery of new or important matter or evidence which the applicant could not produce at the time of initial decision despite exercise of due diligence, or the same was not within his knowledge or if it is shown that the order sought to be reviewed suffers from some mistake or error apparent on the face of the record or there exists some other reason, which, in the opinion of the Tribunal, is sufficient for reviewing the earlier order/decision.

6. In the light of the above, there is no case made out by the Petitioners. Accordingly both review applications will stand dismissed. No costs.