IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE SMT. JUSTICE P.V.ASHA

THURSDAY, THE 8TH DAY OF OCTOBER 2015/16TH ASWINA, 1937

RP.No. 798 of 2015 () IN WP(C).1938/2014

REVIEW PETITIONER/RESPONDENTS NOS 4 AND 5:

1. SATHISH BABU AGED 68 YEARS
S/O.LATE RAMA , DOOR NO M G P 15/88, CAR STREET
HOSABETTU VILLAGE, MANJESHWAR, 671328
KASARAGOD TALUK, KASARAGOD DISTRICT

2. SANTHA AGED 64 YEARS
W/O.SATHISH BABU, DOOR NO M G P 15/88, CAR STREET
HOSABETTU VILLAGE, MANJESHWAR 671328, KASARAGOD TALUK
KASARAGOD DISTRICT

BY ADV. SMT.I.SHEELA DEVI

RESPONDENTS/PETITIONER AND RESPONDENTS 1 TO 3:

1. MEERA R.BHAT, AGED 60 YEARS
W/O.RAGHUNATHA BHAT, R/A.DOOR NO M G P 15/92
RAMNATHA KRIPA, HOSABETTU VILLAGE, MANJESHWAR 671328
KASARAGOD TALUK, KASARAGOD DISTRICT

2. MANJESHWAR GRAMA PANCHAYATH,
REP BY ITS SPECIAL SECRETARY, MANJESWAR 671328

3. STATE OF KERALA
REP BY THE SECRETARY
LOCAL SELF GOVERNMENT DEPARTMENT, SECRETARIAT
THIRUVANANTHAPURAM 695001

4. TAHSILDAR
KASARAGOD 671121

SMT.LILLY LESLIE, GOVERNMENT PLEADER
R BY SRI.R.LAKSHMI NARAYAN
R BY SRI.T.B.SHAJIMON

THIS REVIEW PETITION HAVING BEEN FINALLY HEARD ON 08-10-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

RKC

R.P.NO.798/2015

APPENDIX

REVIEW PETITIONER'S EXHIBITS

ANNEXURE A1: TRUE COPY OF THE TRANSFER DEED NO.523/1982 OF THE SUB REGISTRY OFFICER, MANJESHWAR DATED 27.3.1982

ANNEXURE A2: TRUE COPIES OF THE TAX RECEIPTS ISSUED BY THE MANJESHWAR GRAMA PANCHAYAT TO THE REVIEW PETITIONERS.

RKC

TRUE COPY

PA TO JUDGE.

P.V.ASHA, J.

R.P. No.798 of 2015

in

W.P.(C) No.1938 of 2014

Dated this the 8th day of October, 2015

ORDER

This review petition is filed by respondents 4 and 5 in the Writ Petition stating that the writ petition was filed with false averments. They have produced Annexures A1 to A3 documents, stating that they purchased the property in 1982, as per Annexure A1, they constructed a building therein where they are residing and they are paying tax to Panchayat; the building is included in the assessment register of Panchayat and Panchayat has been receiving tax from them, as seen from Annexures A2 and A3.

2. Heard the learned counsel appearing on either side.

3. It is seen that the ground urged in the review petition is that writ petition is filed with false averments. There is no case for the petitioners that the judgment suffers from any error apparent on the face of the records. Eventhough Annexure A1 to A3 are produced, petitioners do not have any explanation for producing the same along with the review petition. The review

petitioners had filed a counter affidavit in the Writ Petition, saying that they have been residing in the property in question after the purchase in 1982, they are residing in the property and Panchayat had resolved to assign the land in their favour. Annexure A1 sale deed was already before this Court as it forms part of Ext.P2 produced in the Writ Petition, which the review petitioners themselves had produced as Ext.P1 along with W.P.(C) No.30922 of 2007 filed by them. Annexure A2 is the extract of assessment register of the Panchayat and A3 is a series of tax receipts issued by Panchayat. Tax receipt for the year 2007-08 was produced ass Ext.P4 in the earlier writ petition. It is pertinent to note that there is no averment in the review petition to the effect that any of these statements in the review petition or documents produced along with it could not be stated in or produced along with the counter affidavit.

4. The review petitioners have not stated any reason or circumstance which prevented them from making any such statement or from filing/producing those documents, before the disposal of the writ petition. Therefore there is no circumstance

warranting a review of judgment.

5. It is settled law that a judgment need be reviewed only if there exists the conditions stipulated under Order XLVII Rules 1 and 2 of Civil Procedure Code, 1908.(see ***Subramanian Swamy v. State of T.N.,(2014) 5 SCC 75, Haridas Das v. Usha Rani Banik, (2006) 4 SCC 78 , Meera Bhanja v. Nirmala Kumari Choudhury (1995)1 SCC 170, etc).*** None of the conditions under Order XLVII Rule 1 or 2 are available in this case, compelling me to undertake a review of the judgment. In case review petitioners are aggrieved by the judgment, it is upto them, to resort to appropriate remedies before the higher forum, other than by way of a review petition on grounds not provided in Section 114 or rules 1 and 2 of Order XLVII of Civil Procedure Code.

In the above circumstances, the review petition is dismissed.

Sd/-
P.V.ASHA,
JUDGE.

rkc