

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :24.08.2015

CORAM :

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

REV.APPL.No.134 of 2014

against

S.A.No.1203 of 2012

1.A.P.Krishnaveni Ammal
2.A.G.Kanniah
3.A.G.Raghupathy
4.N.T.Sriranjani
5.A.G.Sukumar

... Applicants

Vs.

Papiah Reddi

... Respondent

Prayer:- This Review application has been filed under Order 47 Rule 1 and 2 r/w Section 114 of the Code of Civil Procedure Code against the Judgment and decree dated 18.06.2014 made in S.A.No.1203 of 2012.

For Applicants : Mr.T.Murugamanickam

for Mr.P.Krishnan

For Respondents : Mrs.R.Maheswari

J U D G M E N T

The defendants who are the appellants in the Second appeal have preferred the above Review application.

2. The only challenge to the judgment is with respect to para 13 of the judgment which reads as follows:-

"13.In this case, admittedly, the property was purchased by the plaintiff's father in the name of the defendant.....".

3. The learned counsel for the review applicants contends that no such admission was made either in the pleadings or in the course of the argument as it was the consistent stand of the defendants that the property belong only to the first defendant. Hence in the review application, the applicants seek to issue the said phrase.

4. The review application was resisted by the respondent who is the plaintiff in the suit by contending that the plaintiff's father had purchased the property in the name of the first defendant due to the family constraint at that time.

5. The learned counsel for the respondent pointed out that in para 14 of the trial Court judgment, it has been held that originally the plaintiff's father purchased the property in the name of the first defendant, which contention was not rebutted by the defendants by producing contra evidence.

6. The lower appellate Court has found that Chengaiah Reddy purchased the property in the name of the first defendant, which has not been denied by the defendants. Ex.A1 is the release deed dated 26.12.1970 executed by Chengaiah Reddy in favour of Pappiah Reddy which clearly indicates that on his own source of money, the suit property was purchased in the name of the first defendant. Hence, it was submitted by the learned counsel for the respondent that the review application is not maintainable, as there is an error apparent on the face of the record.

7. The learned counsel for the respondent also placed his reliance on the decision of Hon'ble Supreme Court reported in **(1995) 1 SCC Page 170 in Meera Bhanja(Smt) -vs- Nirmala Kumari Choudhary (Smt)** wherein, it has been held as follows:.

15."In our view the aforesaid approach of the Division Bench dealing with the review proceedings clearly shows that it has overstepped its jurisdiction under Order 47, Rule 1 CPC by merely styling the reasoning adopted by the earlier Division Bench as suffering from a patent error. It would not become a patent error or error apparent in view of the settled legal position indicated by us earlier. In substance, the Review Bench has re-appreciated the entire evidence, sat almost as

Court of appeal and has reversed the findings reached by the earlier Division Bench. Even if the earlier Division Bench's findings regarding C.S.Plot No.74 were found to be erroneous, it would be no ground for reviewing the same, as that would be the function of an appellate Court. Learned counsel for the respondent was not in a position to point out how the reasoning adopted and conclusion reached by the Review Bench can be supported within the narrow and limited scope of Order 47, Rule 1 CPC, Right of wrong, the earlier Division Bench judgment had become final so far as the High Court was concerned. It could not have been reviewed by reconsidering the entire evidence with a view to finding out the alleged apparent error for justifying the invocation of review powers.....".

8. The learned counsel for the respondent has also placed his reliance on the Judgment reported in **(2000) (9) SCC Page 290 (Vidyawathi Kapoor Trust and another Vs Appropriate Authority and Others)**, wherein, it has been held as follows:

"4.....therefore, there is no substance in this contention of the review petitioners as tried to be made out in the

first submission. Resultantly, the final order passed by this Court cannot be said to have suffered from any patent error which calls for interference in review proceedings.

5. So far as the submission in para 2 is concerned it has already been dealt with from p.17 bottom to p.18 of the impugned order and it amounts to an attempt on the part of the petitioner to get the matter reargued. Similar objection would remain sustained against other contentions in the review petitions which are also attempts to get the matter reargued.”

9. From a reading of the above judgments, it is clear that review will not be maintainable when a minor mistake of inconsequential import is there or an error manifest on the face of the order, undermines its soundness or results in miscarriage of justice. Even, if there is an error apparent on the face of the record, it should be the one apparent on the face of the record and not to be searched. It is also held by the Hon'ble Supreme Court that the appreciation of the evidence of record is fully within the domain of the appellate Court and the same cannot be permitted to be advanced in the review application.

9. In view of the above principles laid down by the Hon'ble Supreme Court in considering the review application, this Court is of the view that there is no case made out for interference of this Court in exercising the review jurisdiction. Hence, the Review Application is dismissed. No costs.

24.08.2015

srn

Index : Yes/No
Internet : Yes/No

To

1. The Subordinate Judge, Tiruvallur
2. The District Munsif, Tiruvallur

PUSHPA SATHYANARAYANA.J,

srn

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