

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.03.2015

Coram

The Hon'ble Mr. Justice **M.DURAISWAMY**

Review Appln.No.142 of 2014

1.K.Subramanian
2.Palaniappan
3.P.Arthanari(deceased)
4.K.Allimuthu
5.K.Govindan(deceased)
6.P.Subramani
7.A.Kuppuswamy

.. Applicants

Vs.

The Special Commissioner and
Commissioner,
Hindu Religious and Charitable Endowment,
Uthama Gandhi Road,
Nungambakkam,
Chennai-600 034
Respondent

...

Review petition filed under Section 114 read with Order 47
Rule 1 C.P.C. to review the judgment and decree of this Court, dated
9.12.2011, passed in A.S.No.660 of 2008.

For Applicants

.. Ms.G.Sumithra

For Respondent

.. Mr.S.Kandaswamy,Spl.G.P.

ORDER

By judgment dated 9.12.2011, in A.S.No.660 of 2008, this Court confirmed the judgment and decree of the trial Court and dismissed the appeal. The appellants in the first appeal have filed the above review application.

2.The learned counsel appearing for the review applicants raised two grounds, which according to her, warrant interference in the review application. The first ground raised by the learned counsel for the applicants was that Section 51 the Tamil Nadu Hindu Religious and Charitable Endowment Act, 1959, (hereinafter referred to 'the HR & CE Act' in short) was not considered by this Court in the first appeal and the second ground was that the suit was filed under Section 70(1) of the HR & CE Act, whereas, it has been wrongly mentioned as 70(2) of the Act.

3. So far as the mentioning of the provision of law is concerned, it is a typographical error and that the statutory suit was filed only under Section 70(1) of the HR & CE Act and not under Section 70(2) of the Act, as mentioned in the judgment. However, this is not a ground to review the entire judgment.

4. The learned Special Government Pleader submitted that the application of Section 51 of the HR & CE Act was not argued before the Court at the time of arguing of the first appeal.

5. It is settled principle that the scope of Order 47 Rule 1 C.P.C is very limited and that the review applicants cannot re-argue the appeal in the review application. Under Order 47 Rule 1 C.P.C., the judgment can be reviewed only if there is an error apparent on the face of the record. As rightly pointed out by the learned Special Government Pleader, the application of Section 51 of the HR & CE Act was not argued before this Court while disposing of the appeal. Even a perusal of the grounds of first appeal shows that no specific ground has been raised in the memorandum of grounds of appeal with regard to Section 51 of the HR & CE Act. The said ground has been raised for the first time in the review application, which cannot be allowed under the provisions of law. In the absence of any error apparent on the face of the record, warranting interference in the review application, the review application is devoid of merits and the same is dismissed. No costs.

04.03.2015

M.DURAI SWAMY,J.

msk

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