

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.01.2015

CORAM

THE HONOURABLE THIRU JUSTICE R.S.RAMANATHAN

Review Petition No.85 of 2014

R.Radhakrishnan

... Petitioner

Vs.

R.Nagarajan

... Respondent

Review Petition filed under Order 47, Rule 1 r/w Section 114 of C.P.C., praying to review the Judgment and Decree dated 24.02.2014 made in S.A.No.830 of 2013 on the file of this Court.

For Petitioner : Mr.R.Bharath Kumar

For Respondent : Mr.Deivasigamani

ORDER

Heard the learned counsel for the review petitioner. The respondent was served and his name has also been printed in the cause list. The name of the learned counsel who appeared for the respondent in the Second Appeal has also been printed in the cause list and there is no representation for the respondent.

2. It is submitted by the learned counsel for the review petitioner that while partly allowing the Second Appeal filed by the appellant / plaintiff, this Court granted permanent injunction in respect of the

property covered under Ex.A.2. This Court referred to the measurement given in Ex.C2 Commissioner's Plan and held that the plaintiff is entitled to the relief of permanent injunction in respect of the property shown as A, B, E, F, C and D in the Commissioner's plan Ex.C.2. He submitted that under Ex.A.2, the plaintiff / appellant is entitled to 48¼ feet East West on the northern side and 48½ feet East West on the southern side and that was also correctly reflected in Ex.C.4 Plan by showing the same in yellow colour. But, in Ex.C.2, the measurement is wrongly given stating that the distance between E & F on the northern side is 52½ feet East West and between B & C, the distance is 42½ feet East West on the southern side and by reason of wrong measurement in Ex.C.2, the petitioner is losing 4 feet. This Court held that the plaintiff/review petitioner was entitled to the measurement as per Ex.A.2 and therefore, the finding in Paragraph 30 of the judgment that permanent injunction given in respect of the property A, B, E, F, C and D in the commissioner's plan in Ex.C2 has to be modified and the measurement given in Ex.C.4 Plan has to be substituted.

3. In Paragraph 29, I held that the plaintiff can claim only the property situate on West of the eastern lane and that property is

having measurement of 48½ feet East West as per Ex.A2. Therefore, the plaintiff cannot claim 52½ feet East West on the northern side under Ex.A.3. It is also seen from Ex.A.2 that the plaintiff/review petitioner is entitled to 48¼ feet East West on the northern side and 48½ feet East West on the southern side and this is clearly mentioned in Ex.C.4 plan by showing the same in yellow colour.

4. Considering the same, the relief of permanent injunction is granted in respect of the property as per Ex.A2 as shown in yellow colour in Ex.C.4 and the observation in Paragraph 30 of the judgment, the relief of permanent injunction in respect of property shown as property A, B, E, F, C and D in the commissioner's plan Ex.C.2 has to be deleted and in that place, the relief of permanent injunction in respect of the property shown in yellow colour in Ex.C.4 and as per the measurement under Ex.A.2 has to be substituted. Hence, the review petition is allowed to that effect. The connected Miscellaneous Petition is closed. No order as to costs. The decree may be re-drafted as stated above.

07.01.2015

Index : yes / no
Internet : yes / no
asvm

R.S.RAMANATHAN, J.

(asvm)

Order in
Rev.Petition No.85 of 2014

07.01.2015