IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.07.2015

CORAM

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE MR.JUSTICE M.VENUGOPAL

Review Application No.66 of 2015
and
M.P.No.1 of 2015

1.The Commissioner,
Commercial Tax Department,
Puducherry.
2.The Commercial Tax Officer,
Commercial Tax Department,
Mahe.
3.The Assistant Commercial Tax Officer,
Commercial Tax Department,
Mahe. .. Applicants

Vs.

M/s.Dinup Traders
rep by K.Dinup
Deepalayam,
Edanoor,
New Mahe, Mahe. .. Respondent

This Review application is filed under Order 47 Rule 1 CPC read with Section 114 of CPC against the judgment dated 06.02.2015 passed in W.A.No.38 of 2015.

For applicants : Mrs.N.Mala, AGP (Puducherry)

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ORDER

(Order of the Court was made by **SATISH K. AGNIHOTRI, J.**)

The review applicants, who were the appellants, seeks review of the order dated 6th February, 2015 passed in W.A.No.38 of 2015.

2 The review applicants seek to review the above said judgment on the same grounds, which were raised at the time of hearing of the appeal and after consideration of the same, the judgment dated 6th February, 2015 was passed. The applicants have failed to indicate any manifest error or wrong administration of justice or discovery of new or important matter or evidence, which even after due diligence was not within the knowledge of the applicants at the time of hearing of the appeal. The applicants have also not produced before the court any other sufficient reason which necessitates review of the judgment, which according to the applicants, resulted into improper administration of justice.

3 We have considered the grounds raised by the applicants in the review application carefully and also examined the pleadings. We are of the considered opinion that the review is an attempt on the part of the applicants to re-argue the appeal, which is impermissible and the same is outside the ambit and scope of the review jurisdiction.

4 The Supreme Court, in *Kamlesh Verma vs. Mayawati and Others*[1], after referring to and considering various decisions on the scope of review in *T.C.*

1 (2013) 8 SCC 320

Basappa vs. T. Nagappa[2], *Sow Chandra Kante vs. Sk. Habib*[3], *Northern India Caterers (India) Ltd. vs. Lt. Governor of Delhi*[4], *Col. Avtar Singh Sekhon vs. Union of India*[5], *Meera Bhanja vs. Nirmala Kumari Choudhury*[6], *Parison Devi vs. Sumitri Devi*[7], *Kerala SEB vs. Hitech Electrothermics & Hydropower Ltd.*[8] and *Jain Studios Ltd. vs. Shin Satellite Public Co. Ltd.*[9], summarised the principle of maintainability of a review as under:

> *"Summary of the principles*
>
> 20. Thus, in view of the above, the following grounds of review are maintainable as stipulated by the statute:
>
> *20.1. When the review will be maintainable:*
>
> (i) Discovery of new and important matter or evidence which, after the exercise of due diligence, was not within knowledge of the petitioner or could not be produced by him;
>
> (ii) Mistake or error apparent on the face of the record;
>
> (iii) Any other sufficient reason.
>
> The words "any other sufficient reason" have been interpreted in Chhajju Ram v. Neki and approved by this Court in Moran Mar Basselios Catholicos v. Most Rev. Mar Poulose Athanasius to mean "a reason sufficient on grounds at least analogous to those specified in the rule". The same principles have been reiterated in Union of India v. Sandur Manganese & Iron Ores Ltd.
>
> *20.2. When the review will not be maintainable:*
>
> (i) A repetition of old and overruled argument is not enough to reopen concluded adjudications.

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2 AIR 1954 SC 440
3 (1975) 1 SCC 674
4 (1980) 2 SCC 167
5 1980 Supp SCC 562
6 (1995) 1 SCC 170
7 (1997) 8 SCC 715
8 (2005) 6 SCC 651
9 (2006) 5 SCC 501

(ii) Minor mistakes of inconsequential import.

(iii) Review proceedings cannot be equated with the original hearing of the case.

.(iv) Review is not maintainable unless the material error, manifest on the face of the order, undermines its soundness or results in miscarriage of justice.

(v) A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected but lies only for patent error.

(vi) The mere possibility of two views on the subject cannot be a ground for review.

(vii) The error apparent on the face of the record should not be an error which has to be fished out and searched.

(viii) The appreciation of evidence on record is fully within the domain of the appellate court, it cannot be permitted to be advanced in the review petition.

(ix) Review is not maintainable when the same relief sought at the time of arguing the main matter had been negatived."

5 Applying the abovesaid principles to the facts of the case, we do not find any reason to review the judgment as sought for by the applicants. Accordingly, the review application stands dismissed. No costs. Consequently connected miscellaneous petition is closed.

(S.K.A., J.) (M.V., J.)
24th July 2015

Index : Yes/No

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SATISH K. AGNIHOTRI, J.

and

M.VENUGOPAL, J.

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