

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.03.2016

CORAM

THE HONOURABLE Dr.JUSTICE S.VIMALA

CRP (NPD) No.960 of 2016
and CMP.No.5345 of 2016

K.Natarajan

.. Petitioner

Vs

N.R.Sethuram (Died)
N.R.Sethuraman (Died)
1.Sai Shyam
2.Sai Ram

.. Respondents

Prayer:- Civil Revision Petition filed under Section 115 of Civil Procedure Code, praying to set aside the order and decretal order passed by the District Judge, The Nilgiris at Uthagamandalam dated 11.12.2015 passed in I.A.No.31 of 2015 in A.S.No.16 of 2008.

For Petitioner

:Mr.S.Rajendra Kumar

ORDER

This Civil Revision Petition has been filed by the decree holder challenging the order dated 11.12.2015 passed by the learned District Judges Court, The Nilgiris, Ootacamund in I.A.No.31 of 2015 in A.S.No.16 of 2008, which is claimed to be a cryptic order.

2. The contention of the learned counsel for the revision petitioner is that in paragraph nos. 6 and 7 of the order passed in I.A.No.31 of 2015 in A.S.No.16 of 2008 on 11.12.2015, the learned District Judge has simply mentioned that the counter filed by the respondent/defendant is not acceptable and that in para-8 , it is stated that the application for amendment is allowed and both has been done without giving reasons.

3. The Court below is expected to give reasons in coming to any conclusions. But, even though no reasons have been given by the learned District Judge, the conclusion arrived at cannot be faulted with on account of the following reasons :

a) Admittedly the judgment provides relief of recovery of possession, but in the decree there is a serious omission regarding the operative part of the judgment namely, the delivery of possession.

b) This omission is sought to be corrected by an application for amendment, when the judgment and decree do not tally/match with each other. When such is the position, the Court is expected to exercise its inherent jurisdiction to correct its own mistake.

4. Therefore, when an application has been moved by the decree holder seeking correction, it is all the more important that the omission in the decree should be supplied and mistake should be rectified, so that, the decree and judgment stand with each other.

5. Rightly the District Judge has passed orders and while being right, though not right in giving reasons. Remanding the matter for the purpose of reconsideration would bring forth the same result as the mistake is apparent. Therefore, this Court deems it fit to uphold the correctness of the order by supplying the reasons.

6. The learned counsel for the revision petitioner relied upon the decisions reported in **2011(1) CTC 788** [*Sundaram vs. Manickam & others*] and **1999(1) CTC 635** [*Dwarka Das Vs. State of Madhya Pradesh*], in which it has been held that the corrections can be carried out by the Court under Section 152 of C.P.C., only when there is any accidental slip or omission or mistake and not all mistakes committed, while passing judgments.

7. It is not a case, where the mistake is committed while passing orders. But the mistake is committed only when drafting the decree. The important relief granted in the judgment is omitted in the decree. It is an act of inadvertent mistake, which ought to be corrected to by the Court below, without even an application being filed, when the omission is brought to the notice of the Court.

8. In the result, the revision petition is dismissed and the order passed by the learned District Judge, The Nilgiris in I.A.No.31 of 2015 in A.S.No.16 of 2008 is confirmed though for different reasons. No costs. Consequently connected miscellaneous petition is closed.

30.03.2016

ds

To:
The District Court,
The Nilgiris at Ootacamund.

S.VIMALA,J.

ds

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