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HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

REVIEW PETITION No.45 of 2015 in CMA No.657 of 2014

ORDER::

CMA Nos.617 & 657 of 2014 were directed against two interlocutory orders passed in OS No.1356 of 2013. IA No.2041 of 2013, against which CMA No.617 of 2014 arose was filed aggrieved by the grant of interim injunction and IA No.2042 of 2013, against which CMA No.657 of 2014 arose was filed aggrieved by the order of injunction restraining the defendants from interfering with the construction of southern compound wall running from east to west carried out by the plaintiffs on the southern portion of Sy.No.309, situated at Poppalaguda village, Rajendernagar mandal, Ranga Reddy District. Both these appeals were filed by defendants 20 to 24 in the suit.

2. By the order under review, this Court allowed CMA No.657 of 2014 and consequently set aside the order of injunction restraining the defendants from interfering with the construction of compound wall that is being carried out by the

plaintiffs. This review petition is filed seeking to review that portion of the order passed in CMA No.657 of 2014.

3. This Court in CMA No.657 of 2014 set aside the order of injunction restraining the defendants from interfering with the construction that is being carried out by the plaintiffs mainly on the ground that the defendants have disputed the survey report submitted by the Assistant Director, Survey and Land Records, and since there is a dispute it will have to be resolved in the trial and, therefore, injunction granted in IA No.2042 of 2013 was set aside.

4. Sri RA Achuthanand, learned counsel for the review petitioners-plaintiffs strenuously contended that the defendants 20 to 24 have not filed any objections to the report dated 22-09-2014 submitted by the Assistant Director, Survey and Land Records and that part of the observation in the order under review is error apparent on record and therefore the order which allowed the CMA No.657 of 2014 based on such recording is liable to be recalled and the appeal be dismissed.

5. Mr. O. Manohar Reddy, learned counsel for the

defendants-respondents, on the other hand, submitted that the scope of review is very limited and narrow and under the guise of review, the plaintiffs cannot be permitted to re-argue the matter on merits and did not confine to scope of review and, therefore, the review petition is liable to be dismissed.

6. It is settled proposition of law that review jurisdiction is narrow in scope and is not available for correcting an erroneous opinion or finding unless the error is patent and manifestly apparent. But, on perusal of the order under review, it has come in the penultimate paragraph that the defendants have disputed the report dated 22-09-2014 submitted by the Assistant Director, Survey and Land Records, but in fact no objections were filed against report dated 22-09-2014 by defendants disputing the same as contended by review petitioners. *Prima facie*, based on the evidence adduced by the plaintiffs, it was held that the plaintiffs are in possession and enjoyment of the land in question and injunction granted by the Court below was confirmed, and but for this error apparent on the face of record, the relief granted by the Court below in IA No.2042 of

2013 also would have been confirmed by this Court and dismissed CMA No.657 of 2014. The observation made in respect of relief claimed also appears to be error apparent.

7. The Supreme Court in RAJENDER SINGH vs. LT. GOVERNOR, ANDAMAN & NICOBAR ISLANDS (2005) 12 SCC 289) explained the scope of review to correct the orders in exercise of plenary jurisdiction to prevent miscarriage of justice. Paras 14 and 15 read thus:

14. We are unable to countenance the argument advanced by learned Additional Solicitor General appearing for the respondents. A careful perusal of the impugned judgment does not deal with and decide many important issues as could be seen from the grounds of review and as raised in the grounds of special leave petition/appeal. The High Court, in our opinion, is not justified in ignoring the materials on record which on proper consideration may justify the claim of the appellant. Learned counsel for the appellant has also explained to this Court as to why the appellant could not place before the Division Bench some of these documents which were not in possession of the appellant at the time of hearing of the case. The High Court, in our opinion, is not correct in overlooking the documents relied on by the appellant and the respondents. In our opinion, review jurisdiction is

available in the present case since the impugned judgment is a clear case of an error apparent on the face of the record and non-consideration of relevant documents. The appellant, in our opinion, has got a strong case in their favour and if the claim of the appellant in this appeal is not countenanced, the appellant will suffer immeasurable loss and injury. Law is well-settled that the power of judicial review of its own order by the High Court inheres in every Court of plenary jurisdiction to prevent mis-carriage of justice.

15. The power, in our opinion, extends to correct all errors to prevent miscarriage of justice. The courts should not hesitate to review its own earlier order when there exists an error on the face of the record and the interest of the justice so demands in appropriate cases. The grievance of the appellant is that though several vital issues were raised and documents placed, the High Court has not considered the same in its review jurisdiction. In our opinion, the High Court's order in the revision petition is not correct which really necessitates our interference.

8. In the circumstances, the order dated 20-11-2014 allowing CMA No.657 of 2014 is hereby recalled. The order of injunction granted in favour of the plaintiffs in I.A.No.2042 of 2013 is confirmed by dismissing CMA No.657 of 2014. The observations made in this order are only for the purpose

of disposing interlocutory application. However, it is open for the respondents/defendants in review petition to file objections to the report dated 22-09-2014 made by Assistant Director, Survey and Land Records during the course of trial of suit and the trial Court to dispose of the same on merits without being influenced by any of the observations made herein.

9. In the result, the review petition is allowed. No order as to costs.

REDDY, J

A. RAJASHEKER

Dated: 02nd June, 2016
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DATED 02 -06-2016