

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **11.12.2017**

CORAM

THE HONOURABLE MS.JUSTICE PUSHPA SATHYANARAYANA

Review Application No.152 of 2014
and
M.P.No.1 of 2014

1. Mani
2.Smt.M.Rajamani
3.Ms.M.Banu Rekha
4.V.M.Vijayaraghavan

... Review Petitioners/Appellants

-VS-

M.M.Ramasamy

..Respondents/Respondents

Review Application filed to review the order passed in A.S.No.653 of 2009 on the file of this Court and set aside the judgment and decree passed in O.S.No.405 of 2006 on the file of Additional District Fast Track Court No.IV, Coimbatore at Tirupur in O.S.No.405 of 2006 dated 24.12.2008 confirmed by this Court in A.S.No.653 of 2009 on 29.09.2014.

For petitioners : Mr.C.Devasigamani

ORDER

The above review is filed against the Judgment and decree of this Court in A.S.No.653 of 2009 dated 29.09.2014.

2. The review petitioners are the defendants who were the appellants in the appeal suit. A suit was filed for specific performance by the Plaintiff, based on the agreement of sale dated 12.11.2005. The trial Court had decreed the suit, directing the defendants 1 to 4 to receive the balance of sale consideration and execute the Sale Deed in favour of the Plaintiff and also directed the delivery of vacant possession of the properties and further injuncted them from any manner alienating or encumbering the suit property. In the meanwhile, A.S.No.653 of 2009 was preferred against the said Judgment, which also met with the same fate, as this Court has confirmed the Judgment and decree of the Trial Court. Hence, the defendants have preferred the above review contending that the decree was erroneously confirmed on a misconception of fact.

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3. It is to be noted that the counsel who appeared in the Appeal suit has not appeared in the review application and a different counsel has been engaged in the review.

4. The learned counsel for the review petitioners contended that Ex.A5 which is a bank statement ought not to have relied upon by the Court as the same is not a valid document as per Bankers Book Evidence Act. He has also furnished a copy of the Bankers Book Evidence Act 18 of 1891. Though in the review petition such a ground is taken that Ex.A5 is not a valid document, there was no objection raised at the time of marking the same during the trial and there was also no cross examination of the plaintiff, on the said point. However, it was argued that it was a mistake on the part of the counsel for not having argued the said point.

5. Even at the time of arguing the appeal, the said point was never addressed.

6. The learned counsel further contended that the defendants have denied the delivery of postal cover and the letter was never received by them. It was contended further that the marking of documents Exs.A2, A3 and A4 through P.W.1 was also invalid. Thus contending, the learned counsel sought for review of the Judgment as there was a error apparent on the face of the record.

7. It is a well settled principle that the error which is not self evident and has to be detected by a process of reasoning can hardly be said to an error apparent on the face of record. The scope of review is very limited and the same cannot be allowed to be an appeal in disguise. A mere disagreement with the Judgment by the review petitioners cannot be a reason for entertaining the review. The power of review jurisdiction can be exercised only for correction of mistake and not to substitute a view. Hence, in exercise of powers under Order 47 Rule 1 of Civil Procedure Code, the appeal cannot be reheard and corrected.

8. Accordingly, there is no merits in the review petition and the same stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

11.12.2017

Index :Yes/No
Internet:Yes/No
arr
To

The Additional District Fast Track Court No.IV, Coimbatore,
Tiruppur.

PUSHPA SATHYANARAYANA, J

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Pre-Delivery Order made in
Review Apic.No.152 of 2014

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