

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2017

CORAM:

THE HONOURABLE MS. JUSTICE R. MALA

Rev. Application No.75 of 2014

in

C.R.P.No.828 of 2014

R.Jayaprakash

S/o.Mr.Ramalinga Reddiar

..Petitioner/Petitioner

Vs.

1.Ashok

S/o.Mr.Ramadoss Reddiar

2.Usha Rani

W/o.Mr.Ramadoss Reddiar

3.The Tahsildar

Cheyyur Taluk Office

Cheyyur Taluk

Kancheepuram District.

..Respondents/Respondents

Prayer:

Review Application has been filed against the Judgment dated
19.03.2014 made in C.R.P.No.828 of 2014.

For Petitioner

: Mr.N.Nagu Sah

For Respondents

: Mr.S.Ramesh, for R1 & R2

No Appearance - R3

ORDER

The present review application has been filed against the Judgment dated 19.03.2014 made in C.R.P.No.828 of 2014 by confirming the fair and decreetal order passed in I.A.No.1175 of 2013 in O.S.No.114 of 2009 on the file of the learned District Munsif, Madurantakam.

2.The learned counsel appearing for the review petitioner would submit that the present review application has been filed in view of the error apparent on the face of the record in paragraph 15 of the judgment dated 19.03.2014, wherein it was stated that Gangabai Ammal has purchased the suit property viz., S.No.238/9 measuring an extent of 7 acre 09 cents, however, she has bequeathed only 2.28.5 hectares (5 acres 63 cents). But the fact remains that the said Gangabai Ammal had bequeathed the entire property. Hence, the learned counsel wanted to review the matter.

3.Resisting the same, the learned counsel appearing for the respondents 1 and 2 would submit that S.No.238/9 has been sub-divided into S.No.238/9A and S.No.238/9B. The suit scheduled property is situated only in S.No.238/9B and it is not related to S.No.238/9A. Further, the respondents 1 and 2 are only

in possession of the property in S.No.238/10 and there are not in possession of any other property. Further, the respondents 1 and 2 are very conscious about the property in S.No.238/9B and they would also point out that no one had challenged that they are in possession of 7 acres 09 cents. The learned Counsel would further contend that the present review application has been filed only after the matter was posted for arguments in order to prolong the proceedings. Hence, the learned counsel for the respondents 1 and 2 prayed for dismissal of the review application.

4.Considered the rival submissions made by both sides and perused the typed set of papers.

5.It is a well settled principle that the review of the order passed by the competent Court is possible only under 3 circumstances namely,

(i) On discovery of new and important matter or evidence which after the exercise of due diligence was not within his knowledge or could not be produced by a party at the time when the decree was passed or order made.

(ii) On account of some mistake or error apparent on the face of the record.

(iii) or for any other sufficient reasons.

6.In the instant case, the review petitioner has filed two documents viz., an unregistered sale deed dated 25.08.1972 alleged to have been executed by Rajambammal in favour of Gangabai Ammal in respect of 7 acres 09 cents and a Will dated 09.02.1983 executed by Gangabai Ammal in favour of Jayaprakash in respect of the entire properties owned by her. It is pertinent to note that no description of property has been stated in the Will. Even in the application in I.A.No.1175/2013 filed by the revision petitioner seeking amendment of the property, it was merely stated that the extent of 2.28.5 hec had to be deleted and 2.87.0 may be substituted. But there is no description about the Survey Number of the property. It is to be noted that the S.No.238/9 has been subdivided into two and the total extent is 7 acres 09 cents and the extent of the property in S.No.238/9B is 2.28.5 hectares. The balance extent of land is situated in S.No.238/9A. Further, P.W.1 and P.W.2 in their evidence had admitted that the total extent of land in S.Nos.238/9A and 238/9B is 7 acres 09 cents. So, the suit scheduled property is only S.No.238/9B measuring an extent of 2.28.5 hectares.

7.In such circumstances, I am of the considered view that it is not the case of the revision petitioner that he is claiming title to the properties in both the Survey Nos.238/9A and 238/9B. Hence, there is no necessity to review

the order dated 19.03.2014 made in C.R.P.No.828 of 2014 and the review petition stands dismissed. However, the Trial Court is directed to dispose of the suit in O.S.No.114 of 2009 within a period of one month from the date of receipt of a copy of this order.

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