



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

Review Application No.222 of 2017
and C.M.P.No.21954 of 2017
in CRP(PD)NO.3193 OF 2017

J.Arivalagan ... Petitioner/Petitioner

Vs.

R.Viji ... Respondent/Respondent

Prayer : Review Application filed under Order 47 Rule 1 and 2 read with Section 114 of Civil Procedure Code against the order dated 21.11.2017 in C.R.P.(PD) No.3193 of 2017 passed by this Court.

CRP filed under Article 227 of the Constitution of India against the order dated 01.08.2017 passed in IA 9408/2007 in OS 853/2013 in the file of the VI Assistant Judge, city civil court, chennai.

For Petitioner : Mr.V.V.Sriram

For Respondent : Mr.K.Manikandan

O R D E R

This Review Application has been filed to review the order dated 21.11.2017 in C.R.P.(PD) No.3193 of 2017.

2. This Review Application is filed on the ground that the prayer (B) sought for in the plaint is not supported by pleadings and it is not a consequential prayer.

3. In so far as the prayer (B) is concerned, Mr.T.R.Rajaraman, learned Senior Counsel appearing for the petitioner would submit that the evidence of the vendor of the plaintiff is very much essential. Only through the vendor of the plaintiff, the exact extent of land conveyed can be elicited and the question as to whether she had title to convey such an extent whether the vendor had conveyed the excess extent than what she possessed needs to be proved. Even though the petitioner has issued notice for production of original parent deeds, the plaintiff has not produced the same.



4. On the other hand, the learned counsel appearing for the respondent would submit that it is dilatory tactics to protract the proceedings. As held by this Court in the order under review, the petitioner has come to this Court thrice by way of revision with ulterior motive. The issue of cause of action can be decided by the Court after evidence. Therefore, the petition is liable to be dismissed.

5. I have heard the rival contentions made by both the counsel.

6. If at all the petitioner wants to find out as to whether excess extent was conveyed by the vendor of the plaintiff than what she possessed, it can be culled out from the parent documents. In the event, the plaintiff is not producing the originals of parent deed, it is also open to the petitioner to get certified copies of the documents from the Registrar's office and let in evidence on the basis of the same to elicit this point. It is always open to the petitioner to mark the certified copies of the documents in support of his case, following the ingredients of Section 65 of the Indian Evidence Act, 1872. It is also evident that in the absence of any pleadings or cause of action, the Court will not grant any relief.

7. In such circumstances, this Review Application is dismissed with the above observations. The direction already issued to dispose of the suit within a time stipulated remains in tact and the trial Court is directed to comply with the direction in letter and spirit. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-iv)

//True Copy//

Sub Assistant Registrar

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To

The VI Assistant Judge,
City Civil Court, Chennai.

+2cc to Mr.K.MANIKANDAN, Advocate, S.R.No. 539

+1cc to Mr.V.V.SAIRAM, Advocate, S.R.No. 506(18.01.18)

Review Application No.222 of 2017

IN CRP(PD) NO.3193 OF 2017

TR(05/01/2018)