

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.09.2017

CORAM

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Review Application No.62 of 2015

in

C.R.P.(PD) No.2343 of 2012

Mr.Alladi Sitaram

..

Review Applicant

-vs-

1. M/s P.L.Finance and Investment Ltd.,  
No.4, 2<sup>nd</sup> Link Road  
CIT Colony, Mylapore  
Chennai 600 004  
rep by its Director Mr.M.Narayana Murthy

2. M/s Premier Housing and Industrial  
Enterprises Ltd.,  
No.4, 2<sup>nd</sup> Link Road  
CIT Colony, Mylapore  
Chennai 600 004  
rep by its Director M.Narayana Murthy

3. Mrs.Geetha Ravishankar  
4. P.A.Kothanda Rama Chetty  
5. Mr.Kamalhasan  
6. Mr.Alladi Prabhakar  
7. Mrs.Lalitha Ramakrishnan  
8. Dr.Krishnasamy Alladi

(Respondents 5 to 8 were given up in CRP) .. Respondents

Memorandum of Grounds of Review Application under Order 47 Rule 1 read with Section 114 of Civil Procedure Code, to review the order dated 02.04.2013 made in C.R.P.(PD) No.2343 of 2012.

For Review Applicant :: Mr.D.Govinda Reddy

ORDER

This review application is filed by the revision petitioner to review the order dated 02.04.2013 made in C.R.P.(PD) No.2343 of 2012. The review applicant is the fifth defendant in I.A.No.10633 of 2011 in O.S.No.14314 of 2010 on the file of the learned V Additional Judge, City Civil Court, Chennai and he filed the revision petition against the order dated 20.2.2012 passed in I.A.No.10633 of 2011 in O.S.No.14314 of 2010 on the file of the learned V Additional Judge, City Civil Court, Chennai.

2. The respondents 1 & 2 originally filed the Civil Suit No.1107 of 2007 for permanent injunction in this Court against the respondents 3 to 5 from interfering with their peaceful possession and enjoyment of the suit schedule property. The respondents 1 & 2 also filed I.A.No.1354 of 2007 for interim injunction against the respondents 3 to 5. This Court granted interim injunction by order dated 5.3.2008. Against the said order, the respondents 3 to 5 filed Original Side Appeal Nos.126, 127 and 171 of 2008. By a judgment dated 30.7.2008, the Division Bench of this Court allowed all the appeals filed by the respondents 3 to 5. The respondents 1 & 2 filed S.L.P.(Civil) Nos.19769 to 19771 of 2008 before the Hon'ble Apex Court. The said Special Leave Petitions were dismissed by the Hon'ble Apex Court by order dated 27.7.2011. In the

meanwhile, due to enhancement of pecuniary jurisdiction of this Court, C.S.No.1107 of 2007 was transferred to the file of the learned V Additional Judge, City Civil Court, Chennai and re-numbered as O.S.No.14314 of 2010. Thereafter, the respondents 1 & 2 filed I.A.No.666 of 2011 in O.S.No.14314 of 2010 for amendment to include the relief of declaration of title, on the ground that the respondents 3 to 5 are claiming title over 1 ground 250 sq.ft., in S.Nos.1652/3 and 1652/4 taking advantage of the fact that the survey numbers were written in ink and not authenticated by the vendors. The said application was allowed by order dated 20.2.2012. The respondents 1 & 2 also filed I.A.No.10633 of 2011 in O.S.No.14314 of 2010 for impleading the proposed respondents viz., the review applicant and the respondents 6 to 8 as the defendants in the suit. The said application was allowed by order dated 20.2.2012. Challenging the said order, the review applicant herein filed C.R.P.(PD) No.2343 of 2012. This Court, considering the materials on record and the judgments relied on by the parties, dismissed the civil revision petition holding that since the relief of declaration is sought for, the revision petitioner and the respondents 6 to 8 are necessary and proper parties to decide the issue in the suit. Now the revision petitioner has filed the present review application to re-consider the said order.

3. The review applicant has raised various grounds in the present

application and even though the learned counsel for the review applicant brought to the notice of this Court that subsequent to the filing of the review application, the suit in O.S.No.14314 of 2010 on the file of the learned V Additional Judge, City Civil Court, Chennai was re-transferred to this Court and re-numbered as C.S.No.736 of 2012 and that the said suit itself was dismissed as withdrawn by judgment dated 21.1.2016, he made his submissions on merits.

4. It is well settled that the scope of review is very limited and the review application is not an appeal and the party is not entitled to re-argue the case on merits or on new points. Only if there is any error apparent on the face of the order sought to be reviewed, the Court can review the said order. The Hon'ble Apex Court considered the scope of review in the judgment in **Lilli Thomas and Others Vs. Union of India and Others, 2000 (6) SCC 224**, wherein, in paragraph 52, it was held as under:

"52. The dictionary meaning of the word "review" is "the act of looking, offer something again with a view to correction or improvement". It cannot be denied that the review is the creation of a statute. This Court in **Patel Narshi Thakershi Vs. Pradyumansinghji Arjunsinghji [1971 (3) SCC 844 : AIR 1970 SC 1273]** held that the power of review is not an inherent power. It must be conferred by law either specifically or by necessary implication. The review is also not an appeal in disguise. It cannot be denied that justice is a virtue which transcends all barriers and the rules or

procedures or technicalities of law cannot stand in the way of administration of justice. Law has to bend before justice. If the Court finds that the error pointed out in the review petition was under a mistake and the earlier judgment would not have been passed but for erroneous assumption which in fact did not exist and its perpetration shall result in a miscarriage of justice nothing would preclude the Court from rectifying the error. ...."

5. A Division Bench of this Court also in the judgment in **M.Jai Kavitha Vs. The Authorised Officer, Syndicate Bank, Regional Office, Chennai - 1 and others, 2014 (3) TLNJ 245 (Civil)**, has considered the scope of judicial review, wherein the aforesaid decision of the Hon'ble Apex Court was quoted with approval. Paragraph No.9 of the said Judgment reads as under:

"9. The power of review under Order 47 Rule 1 of CPC can be exercised by a court of law, if the order in question comprises a mistake or an error apparent on the face of record. Once an order is pronounced, it should not be altered, unless there is an apparent error. Law is well settled that erroneous finding is not a ground for review, so also improper consideration for that matter. In review application, the court does not sit in appeal over its own judgment and the said application cannot be treated as an appeal. This position has been ruled by the Supreme Court in Lily Thomas Vs. Union of India [2000 (6) SCC 224]. Therefore, in the absence of any error apparent on the face of record, we are not inclined to

interfere with the order in question, except to the extent of deleting of the portions in paragraphs 14 and 15 of the impugned order, with which the applicant is concerned as to having an impact on the proceedings pending before the tribunal, as stated in the foregoing paragraph."

6. In the light of the dicta laid down by the Hon'ble Apex Court as well as by the Division Bench of this Court and on consideration of the submissions made by the learned counsel for the review applicant, I do not find any error apparent on the face of the record to review the order passed in the civil revision petition, especially when the suit itself came to be withdrawn. Hence, this review application is dismissed. Consequently, M.P.No.1 of 2015 is also dismissed.

Speaking/Non speaking order

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Index : yes/no

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