

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04-09-2017

CORAM

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

**Review Application No.165 of 2011
and M.P.No.1 of 2011
in
CRP.(NPD) No.825 of 2011**

1.Vedavalli @ Sowmia
2.Jayalakshmi @ Priya
3.Venkatakrisnan @ Kannan
4.Venkatesh Pratab
[Petitioners 1, 2 & 4 rep.by
their Power of Attorney
Venkatakrisnan @ Kannan,
3rd petitioner]

...

Petitioners

Vs

V.Govindaraj

Respondent

This Review Application is filed under XLVII Rule 1 of CPC
r/w Section 114 of CPC against the order dated 25.07.2011 made in
in CRP (PD) No.825 of 2011.

For Petitioner : Mr.D.Ravichander

ORDER

This review application is filed to review the order dated
25.07.2011 made in in CRP (PD) No.825 of 2011.

2. The Civil Revision Petition has been filed against the order dated 03.11.2009 passed in C.M.A.No.1 of 2009 directing the respondents to file an application for appointment of Advocate Commissioner to find out whether there exist some other way to enter into the suit property without disturbing other co-sharers. This Court, by order dated 25.07.2011, dismissed the Civil Revision Petition filed by the petitioners confirming the order passed in I.A.No.665 of 2008 in O.S.No.156 of 2008.

3. The petitioners contend that they have protection under Section 44 of the Transfer of Property Act and that such direction cannot be issued. This Court, by order dated 25.07.2011 in CRP (PD) No.825 of 2011 has considered the said contention and held that whether the petitioner has protection under Section 44 of the Transfer of Property Act or not cannot be decided in the Civil Revision Petition and the said issue can be decided only in the suit. Mere appointment of an Advocate Commissioner and filing of report is not going to decide the said right and dismissed the Civil Revision Petition.

4. To review the said order of dismissal dated 25.07.2011, the present Review Application has been filed.

5. The petitioners have sought for to review the order on the ground that the petitioners are protected under Section 44 of the Transfer of Property Act. This Court considered the said contention and dismissed the CRP holding that the said issue can be decided in the suit. It is well settled law that the power of the Court is very limited while considering the review petition. Only when there is an error apparent on the face of the record, earlier order can be re-considered. A review petition is not an appeal and in the guise of review, cannot re-argue the matter on merits.

4. In the result, this Review Application is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

04.09.2017

rgr

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V.M.VELUMANI, J.

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