

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04-09-2017

CORAM

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

**Review Application No.67 of 2009
and M.P.No.1 of 2009
in
CRP.(NPD) No.4264 of 2008**

P.K.Kumaravel

...

Petitioner

Vs

1.A.Sundaram

2.P.R.Kannappa Mudaliar

...

Respondents

This Review Application is filed under XLVII Rule 1 of CPC r/w Section 114 of CPC against the order passed by this Court in CRP (NPD) No.4264 of 2008 dated 21.01.2009.

For Petitioner : Mr.A.Sivaji

For Respondent : Mr.C.Prakasam

ORDER

This review application is filed against the order passed by this Court in CRP (NPD) No.4264 of 2008 dated 21.01.2009.

2. According to the petitioner, this Court, without properly considering the amount mentioned in the EP, allowed the Civil Revision Petition. The insolvency proceedings are collusive and the promissory note filed in the EP is created for the purpose of the case and the first respondent did not contest the Insolvency Proceedings. This Court has no right in holding that the EP is not maintainable and failed to consider that the EP was prolonged by the first respondent. In view of the above errors, the order of this Court has to be re-considered. These grounds are not valid grounds for reviewing the earlier order.

3. This Court allowed the Civil Revision Petition on the ground that the first respondent was adjudicated as insolvent in I.P No.1 of 2007. The petitioner cannot re-argue the matter or argue the review petition based on new facts. 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. If the insolvency proceedings are collusive one and order passed adjudicating the first respondent as insolvent, the remedy available to the petitioner is to approach the Executing Court or to approach the Official Liquidator to get his grievance redressed. This Court had held so in the order sought to be reviewed. There is no error apparent on the face of the record warranting interference by this Court to review the said order.

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

rg

04.09.2017

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V.M.VELUMANI, J.

rgr



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