



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 25.01.2018

PRONOUNCED ON : 02.02.2018

CORAM

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THE HONOURABLE MR.JUSTICE T.RAVINDRAN

REV.APLC (MD) No.245 of 2017 in CRP (MD) No.1185 of 2007 and
CMP (MD) No.11327 of 2017

Petchiammal .. Review Petitioner / Respondent

Vs.

1. The Tahsildhar,
Tahsildhar Office,
Sankarankoil, Thirunelveli District.
2. The Village Administrative Officer,
Vannikonendal Village,
Sankarankoil Taluk,
Tirunelveli District.
3. The Revenue Inspector,
Vannikonendal Village,
Sankarankoil Taluk, Tirunelveli District.
4. Firha Surveyor,
Vannikonendal Firha
Sankarankoil Taluk,
Tirunelveli District. .. Respondents / Petitioners

Prayer:- The Review Application has been filed under Order 47 Rule 1 and 2 r/w Section 114 of C.P.C. against the Order made in C.R.P. (MD) No.1185 of 2007 dated 11.09.2017.

Prayer in CRP (MD) . 1185/ 2007 :

The Civil Revision filed under section 115 of the code of the Civil Procedure to set aside the order and decretal order, dated 14/03/2007 made in E.P.532 of 2004 in O.S.419 of 1997 on the file of Principal District Munsif Court, Sankarankoil.



For the Review Applicant : Mr.S.Ramesh @ Ramiah

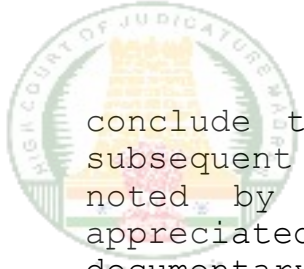
ORDER

This Review Petition is directed against the order passed in CRP(NPD) (MD) No. 1185 of 2007 dated 11.09.2017.

2. Complaining that the respondents herein had violated the order dated 31.07.2001 passed in O.S.No.419 of 1997 on the file of the Principal District Munsif Court, Sankaran Koil, the Review Petitioner preferred Execution proceedings against them under Order XXI Rule 32 clause 1 of Civil Procedure Code and the Executing Court finding acceptance to the case of the review petitioner, ordered further proceedings against the respondents herein. Impugning the same, the C.R.P (NPD) (MD) No.1185 of 2007 has been preferred by the respondents. This Court, after considering the materials placed on record, finding that the respondents are not shown to have indulged in any act in violation of the decree passed in the suit dated 31.07.2001 and further, finding that the lower Court has not properly appreciated the oral evidence adduced in the matter by the respective parties and accordingly, holding that the respondents herein had not initiated any patta proceedings as such in disobedience to the judgment and decree dated 31.07.2001 passed in the suit, set aside the fair and decretal order passed in the execution proceedings against the respondents in the Civil Revision Petition by allowing the Civil Revision Petition in favour of the respondents. Seeking review of the same, the present Civil Revision Petition has come to be laid.

3. The only ground that has been projected by the petitioner in the review petition is that during the pendency of O.S.No.419 of 1997, the petitioner had been granted the order of status quo by the Court concerned and inasmuch as the said order of status quo continued till the disposal of the suit, according to him, inasmuch as the respondents had resorted to patta proceedings pending the suit in O.S.No.419 of 1997 and when the materials are projected to substantiate the same and when the petitioner had failed to project the said fact at the time of submission in the Civil Revision Petition when the same was taken into consideration, according to him, the interim order passed in the suit proceedings would enure in favour of the petitioner and therefore, inasmuch as the respondents had initiated or resorted to patta proceedings in violation of the interim order, the order impugned in the review petition is required to be reconsidered.

4. However, the above contention does not merit acceptance as such. When it is found that the petitioner had laid the execution proceedings against the respondents only complaining of the violation of the decree passed in the main suit dated 31.07.2001 and when it is found that the petitioner had not placed any material to



conclude that the respondents had resorted to patta proceedings subsequent to the decree passed in the suit and when it has been noted by the Court that the Courts below had not properly appreciated the materials placed on record, both oral and documentary evidence, in the right perspective, found that the execution proceedings laid by the petitioner against the respondents as such is not maintainable. If really, according to the petitioner, the respondents had flouted the interim order passed pending the suit proceedings and resorted to the patta proceedings, as now contended, nothing prevented the petitioner from moving the concerned Court for initiating necessary action against the respondents, then and there, as available to her under law. On the other hand, it is found that the petitioner has not raised the said issue at the relevant point of time. Inasmuch as the petitioner knew very well that such proceedings had not been commenced by the respondents in violation of the status quo passed by the Court concerned, in such view of the matter, when the petitioner has laid the execution proceedings complaining only of the violation of the decree dated 31.07.2001 and when no material has been placed in support of the same, it is found that this Court accordingly entertained the revision petition preferred by the respondents.

5. During the course of arguments, it is admitted by the counsel appearing for the petitioner that the petitioner had failed to bring it to the notice of the Court about the order of the status quo passed by the Lower Court, during the pendency of the suit proceedings. It is therefore seen that the material now projected by the petitioner is not of new origin and known to the petitioner at the time when the Civil Revision Petition was heard by this Court or the said fact was within the knowledge of the petitioner or could have been produced by her. In such view of the matter, when the petitioner is not attempting to project a new material, which was unavailable and not within her knowledge when the Civil Revision Petition was taken up for consideration, on the other hand when she has failed to place the same before the Court for consideration at that point of time, it is found that the petitioner cannot be allowed to raise the said point by way of the review petition to disturb the order passed in the Civil Revision Petition. That apart, as above seen, if really, the respondents had flouted the order of status quo passed during the pendency of the suit proceedings, the petitioner would have resorted to necessary legal proceedings then and there against the respondents in the concerned Court. The petitioner having failed to resort to the same and when further the petitioner has failed to project the said point when the Civil Revision Petition was taken up for consideration and further, when the matter now projected cannot be construed as a mistake or an error apparent on the face of the record, in the light of the decision reported in 2013 8 SCC 320, (Kamlesh Verma Vs. Mayavathi and Others) I am of the considered opinion that the review petition lacks merits and is not entitled for acceptance.



6. In conclusion, the review petition is found to be devoid of merits and accordingly, the same is dismissed. Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(W)

/True copy/

Sub Assistant Registrar

TO

1. The Tahsildhar,
Tahsildhar Office,
Sankarankoil, Thirunelveli District.

order made in
REV.APLC(MD) No.245 of 2017
in CRP(MD)No.1185 of 2007 and
CMP(MD) No.11327 of 2017
02.02.2018

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