

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.06.2018

CORAM

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Review Application No.168 of 2017
in C.R.P(PD). No.999 of 2017

R.Raghuraman

..Petitioner

Vs.

1.Balambal
2.Dhanalakshmi
3.Dhayanithi
4.Thambidurai
5.Valarmathi
6.Kamalam
7.Padmavathi

..Respondents

PRAYER: Review Application filed under Order 47 Rules 1 and 2 read with Section 114 of C.P.C, to review the order dated 14.06.2017 made in C.R.P(PD).No.999 of 2017 on the file of this Court.

For Petitioner : Mr.R.Surya Prakash
for Mr.A.Rajesh Kanna

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ORDER

The petitioner in the Review Application has come out with the present Review Application to review the order dated 14.06.2017 made in C.R.P(PD).No.999 of 2017 on the file of this Court.

2.The review petitioner is the petitioner and respondents are the respondents in C.R.P.No.999 of 2017. The review petitioner filed suit O.S.No.304 of 2014 for permanent injunction restraining the respondents from interfering with his peaceful possession and enjoyment of the suit schedule property. The respondents 3 and 4 filed written statement and are contesting the suit. The review petitioner filed I.A.No.116 of 2016 for appointment of an Advocate Commissioner to inspect the suit property and note down the physical features of the suit property along with the help of Taluk Surveyor and file a report. According to the petitioner, he is in possession of the suit property and he has planted guava and Eucalyptus trees. He has documents to prove the title and possession of the properties. The appointment of the Advocate Commissioner and his report will reduce the evidence and save the precious time of the Court.

3.The third respondent filed counter affidavit and opposed the said application. I.A.No.116 of 2016 was dismissed after contest. The petitioner filed C.R.P(PD).No.999 of 2017, challenging the said order dated 10.01.2017. This Court by the order dated 14.06.2017,

dismissed the Civil Revision Petition, holding that the Advocate Commissioner cannot be appointed to find out who is in possession of the suit property. There is no dispute with regard to boundaries, extent and description of the property and that review petitioner has to prove his possession by acceptable evidence.

4.The petitioner has come out with the present Review Application to review the said order on the ground that the respondents have stated that there is no demarcation of the properties and petitioner is not seeking report through the Advocate Commissioner with regard to possession of the property. The petitioner has filed application for appointment of an Advocate Commissioner to note down the physical features with the help of Surveyor.

5.The learned counsel for the petitioner contended that even in the suit for bare injunction, Advocate Commissioner can be appointed and therefore, the order of this Court dated 14.06.2017 is to be reviewed. These contentions do not point out any error in the order dated 14.06.2017 passed by this Court. After considering the averments made by the petitioner in I.A.No.116 of 2016 wherein he has stated that he has planted guava and Eucalyptus trees and it is

necessary to appoint an Advocate Commissioner to note down the physical features this Court dismissed the Civil Revision Petition giving reasons therein.

6.The Review Application is not an appeal and the revision petitioner cannot re-argue the matter. The Court cannot sit on appeal over its own judgment. The power of the review can be exercised for correction of mistake and not to substitute a view already taken. If the Court has not properly appreciated the facts while dealing with the Civil Revision Petition, the same could be basis for an appeal and not for review. There is no error or mistake apparent on the face of the order passed by this Court.

7.In the result, this Review Application is dismissed. No costs.

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05.06.2018

Index : Yes/No

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V.M.VELUMANI,J.

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