

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 07.06.2018

PRONOUNCED ON:11.06.2018

CORAM:

THE HON'BLE MR.JUSTICE T.RAVINDRAN

Review Application No.200 of 2017
in
S.A.No.82 of 2011

1.Jothiprakasam

2.Dhanasekaran

... Review Petitioners

Vs.

1.Dhanagopal

2.The Asst.Director of Land
Records & Survey,
Cuddalore.

... Respondents

Prayer:

Review Application is filed under Order 47 Rule 1 read with Section 114 of the Code of Civil Procedure against the judgment and decree dated 09.11.2016 in S.A.No.82 of 2011.

For Review Petitioners :Mr.S.V.Jayaraman, Senior counsel
for M/s.R.Balasubramaniam

ORDER

This Revision Petition is directed to review the judgment and decree dated 09.11.2016 passed in S.A.No.82 of 2011.

2. S.A.No.82 of 2011 is directed against the judgment and decree dated 29.01.2010 passed in A.S.No.8 of 2009 on the file of the Subordinate Court, Neyveli, confirming the judgment and decree dated 27.11.2008 passed in O.S.No.23 of 2005 on the file of the District Munsif cum Judicial Magistrate Court, Neyveli.

3. The abovesaid Second Appeal has been preferred by the defendants 1 and 2. The suit had been laid by the plaintiff for the reliefs of declaration and mandatory injunction, on the footing that the suit property originally belonged to Murugesu Padayachi and after his death, the same was succeeded to by his wife Saradhambal and that the plaintiff was taken in adoption by Saradhambal and accordingly, it is contended that the plaintiff's status as the adopted son has been declared in O.S.No.1298 of 1990 and accordingly, it is stated that the plaintiff has succeeded to the suit property after Saradhambal and been in possession and enjoyment of the same and recognizing his title, possession and enjoyment, he had been granted patta and paying

Kists etc., in respect of the suit property and inasmuch as the defendants without any authority interfered with his possession and enjoyment, according to the plaintiff, he has been necessitated to lay the suit for appropriate reliefs.

4. The defendants have taken the plea that they are the children of the brother of the deceased Murugesan and that they had been brought up by Murugesan and accordingly, it is their case that, it is only they, who had performed the last rites of Murugesan after his demise and been in possession and enjoyment of the suit property and they have disputed the claim of the plaintiff as being the adopted son of Saradhambal and thereby disputed his claim of title to the suit property and accordingly contended that the suit property has been in their possession and enjoyment and hence the suit is liable to be dismissed.

5. Based on the materials placed on record by the parties concerned, the Courts below were pleased to accept the plaintiff's case and accordingly granted the reliefs in favour of the plaintiff. Impugning the same, the Second Appeal had been preferred. This Court had also confirmed the judgments and decrees of the Courts

below and thereby dismissed the Second Appeal preferred by the defendants 1 and 2.

6. In this Review Application, the only point that has been urged by the learned Senior Counsel appearing for the Review petitioners is that plaintiff had produced only the patta document and other revenue records for sustaining his claim of title and as the abovesaid documents could not be considered as the documents of title as such, it is his contention that the plaintiff's claim of declaration of title to the suit property is not sustainable and accordingly, it is the further contention of the learned Senior Counsel that this Court had without going into the above aspect of the matter properly, had upheld the plaintiff's claim of title to the suit property and as the the same is an error apparent on the face of the record, according to the learned Senior Counsel, the judgment in question has to be reviewed. In this connection, he placed reliance upon the decisions reported in **1999 (III) CTC 304 [Kammavar Sangam through it Secretary R.Krishnasamy Vs. Mani Janagarajan]** and **2018 (3) MLJ 670 R.Govindarajan Vs. Church of South India, Rep by its Former President B.Mutlur, Chidambaram Taluk, Cuddalore District and Another]**.

7. However, on a perusal of the judgment in question as well as the materials placed on record, it is found that both the parties are claiming title to the suit property only through Murugesan Padayachi. It is admitted that Murugesan Padayachi and his wife Saradhambal had no issues. The plaintiff has established that he has been taken in adoption by Saradhambal and accordingly, this Court had also concurred with the findings of the Courts below that the plaintiff had been taken in adoption by Saradhambal and accordingly, it has been found that the plaintiff would be entitled to succeed to the suit property following the demise of Saradhambal. As above seen, the suit property admittedly belonging to Murugesan Padayachi and after his demise, his wife succeeded to his property and following the demise of Saradhambal, the adopted son i.e., the plaintiff had acquired title to the suit property and thus, it is found that the plaintiff is entitled to the suit property as the legal heir of Saradhambal. To buttress the further case of the plaintiff i.e., his title to the suit property, the plaintiff has also produced the patta documents and other revenue records and accordingly taking the abovesaid factors in *toto*, this Court concurring with the determination of the Courts below held that the plaintiff has established his title to the suit property both

by way of placing the patta and other revenue records as well as his claim of title to the suit property as the adopted son of Saradhambal. In such view of the matter, it is found that the Courts below as well as this Court had not upheld the plaintiff's claim of title to the suit property merely on the basis of the revenue records and on the other hand, tracing the title of the suit property from the original owner i.e., Murugesan Padayachi, the Courts below as well as this Court had upheld the plaintiff's claim of title to the suit property and on the above lines had also taken into consideration, the revenue records placed by the plaintiff for sustaining his claim of title to the suit property. Thus, it is found that the Courts below as well as this Court had not solely relied upon the revenue records for upholding the case of the plaintiff as now argued by the learned Senior Counsel for the Review Petitioners. In such view of the matter, it is found that for the abovesaid contention of the learned Senior Counsel, the judgment in question has to be reviewed, does not merit acceptance and in my consideration, the judgment in question does not suffer from any mistake or error apparent on the face of the record or for any other reason and accordingly, it is found that none of the ingredients contemplated under Order 47 Rule 1 of Code of Civil Procedure is found applicable to the case at hand. Further, considering the

principles of law evolved by the Apex Court in the decision reported in **2013 (8) SCC 320 [Kamlesh Verma Vs. Mayawathi and Others]**, it is found that none of the grounds emanated therein for entertaining the Review Petition has been made out by the Review Petitioners to review the judgment in question.

8. Apart from the above said ground, the learned Senior Counsel appearing for the Review Petitioners has not projected any other valid ground to interfere with or review the judgment in question. On a perusal of the other grounds raised in the Revision Petition, it is found that none of them can be considered as mistake or error apparent on the face of the record and they are only found to be the repetition of the arguments already projected by the Review petitioners in the Second Appeal which had been overruled and in such view of the matter, it is found that the Review Petition does not merit acceptance in any manner.

9. For the reasons aforesaid, the Review Petition fails and is accordingly dismissed. Consequently, connected miscellaneous petition if any, is closed.

11.06.2018

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Index:yes
Internet:yes

T.RAVINDRAN, J.

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Pre-delivery order made in
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