

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.02.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Review Application No.24 of 2018
in C.R.P.(PD).No.3116 of 2014
and C.M.P.No.2603 of 2018

P.Gnanasoundari

.. Petitioner

Vs.

Sri Srinivasamurthy Mandiram
Rep. By its Executive Trustee
D.Srinivasan
No.1, Ellai Amman Koil Street,
West Mambalam,
Chennai 600 033.

.. Respondent

PRAYER: Review Petition filed under Section 114 of C.P.C read with Order 47 Rule 1 of C.P.C to review the order dated 22.12.2017 made in C.R.P(PD).No.3116 of 2014 on the file of this Court.

For Petitioner : Mr.S.Sankarasubbu

ORDER

This Review Application is filed to review the order dated 22.12.2017 made in C.R.P(PD).No.3116 of 2014 on the file of this Court.

2.According to the revision petitioner, this Court failed to consider that as per the order made in I.A.No.18965 of 1997, the revision petitioner is paying the rent till date without default and

failed to consider the order dated 20.11.2006 made in C.R.P.No.81 of 2006 and order dated 10.12.2012 made in C.R.P.No.3228 of 2012. This Court, erroneously held that in the order passed in the present C.R.P.No.3116 of 2014, the husband of the revision petitioner has left the suit premises and left for Mumbai. This is contrary to the judgments passed by this Court in the earlier C.R.P.Nos.81 of 2006 and 3228 of 2012, order passed by the trial Court and first appellate Court. All the Courts have held that the revision petitioner is in continuous possession as tenant till date, from 1996 onwards.

3.Heard the learned counsel for the revision petitioner and perused the materials available on record.

4.As far as payment of rent is concerned, this Court has held that the revision petitioner has produced receipts for payment of rent from 08.04.2009 only, whereas the husband of the revision petitioner and revision petitioner did not pay the rent from 1981 onwards. This Court has held that as per the judgment in O.S.No.4771 of 1984, the trial Court has given finding that the husband of the revision petitioner left for Mumbai and he is not in possession of the petition premises. The husband of the revision petitioner did not challenge the said finding and the same has

become final. The revision petitioner has not raised any plea on the order dated 20.11.2006 made in C.R.P.No.81 of 2006 and order dated 10.12.2012 made in C.R.P.No.3228 of 2012 before this Court in the present C.R.P.No.3116 of 2014.

5.The learned counsel for the revision petitioner has argued the issue afresh on new facts. 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 appeal and not for review. There is no error or mistake apparent on the face of the order passed by this Court.

6.The Review Application is dismissed as devoid of merits. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

27.02.2018

Index : Yes/No

gsa

V.M.VELUMANI, J.

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