

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2018

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

Review Application No.8 of 2018
in S.A.No.865 of 2015
and C.M.P.No.1911 of 2018

P.V.Gurappa .. Review Petitioner/Appellant

Vs.

P.Pilappa .. Respondent/Respondent

* * *

Prayer : Review Petition filed under Order 47 Rule 1 and 2 read with Section 114 of the Code of Civil Procedure against the judgement and decree dated 09.10.2015 passed in S.A.No.865 of 2015 on the file of this Court.

* * *

For Petitioner : Mr.V.Ayyapparaja

J U D G E M E N T

The appellant in the Second Appeal is the Review Petitioner. The Review Petitioner was the defendant in the suit, which was filed for specific performance by the plaintiff.

2. Having lost before the Courts below, the second appeal was preferred and the same was dismissed, without even being admitted,

as the same did not have any question of law to be considered by this Court. The said judgement is now sought to be reviewed.

3. Learned counsel for the review petitioner was only pressing on the merits of the case, which had already been considered by this Court. Review of the earlier order or judgment cannot be done, unless the Court is satisfied that there was a material error manifest on the face of the record.

4. Learned counsel for the petitioner pointed out that in paragraph 5 of the judgment sought to be reviewed, the time was extended for performance of the contract only at the instance of the defendant and the reason was to complete his agricultural activity on the suit property. Learned counsel also pointed out that it was never stated in the written statement. However, learned counsel fairly admitted that in the cross-examination the defendant/review petitioner had agreed for four months time for the performance of the contract, as he had to harvest the standing crops and complete his agricultural activity on the suit land. Learned counsel argued that having parted with more than 90% of the sale consideration, the defendant would not have agreed for eleven months for executing the sale deed. May

be in that context, the plaintiff would have cross-examined the defendant during the trial to elicit the correct reason for granting eleven months time for the appellant to pay a meagre sum of Rs.10,000/-, which was the balance of sale consideration.

5. When the finding is given based on the evidence given by the petitioner, the same cannot be deemed to be an error on the face of the record. As the review is not a matter of routine procedure, unless a material error or patent mistake is pointed out, the order or the judgement cannot be reviewed. As there is no error apparent on the face of the record, the review petition deserves to be dismissed. Accordingly, the same is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

28.02.2018

Index : Yes/No
Internet: Yes
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To

1. The Section Officer,
Judicial Section,
High Court, Madras.
2. The Subordinate Judge, Hosur.
3. The District Munsif-cum-Judicial Magistrate No.I, Hosur.

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Judgement in
Review Application No.8 of 2018

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