

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 04.10.2018

PRONOUNCED ON : 10.10.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

Review Application No.194 of 2018

in

S.A.No.2273 of 2003

- 1.Muruga Gounder (died)
- 2.Pudur Ammal
- 3.M.Jayaseelan
- 4.M.Palani
- 5.M.Viswanathan
- 6.Amutha
- 7.Deivanai
- 8.Minor Muthulingamoorthy
- 9.Minor Padmasreeyan

(Minor Petitioners 8 & 9

Rep.by their mother & next friend

7th petitioner Deivanai) ... Applicants/plaintiffs

Vs.

Arulmigu Chelliamman Temple

Puliyandapatti, rep.by

The Inspector H.R.& C.E.Department

Harur

Dharmapuri District. ... Respondents/Defendant

Prayer :- The Review Application has been filed under Order 47 Rules 1 & 2 read with Section 114 of C.P.C against the judgment and decree of this Court dated 25.06.2018 in S.A.No.2273 of 2003.

For Applicants : Mr.P.Mani

ORDER

Seeking review of the Judgment and decree dated 25.06.2018 passed in second appeal No.2273 of 2003, the present review application has come to be laid by the petitioners/plaintiff.

2. Second appeal No.2273 of 2003 has been preferred challenging the judgement and decree dated 31.10.2003 passed in A.S.No.6 of 2000 on the file of the I Additional District Court, Dharmapuri District at Krishnagiri, reversing the judgment and decree dated 28.10.1999 passed in O.S.No.51 of

1997 on the file of the District Munsif cum Judicial Magistrate Court, Uthankarai.

3.The suit had been laid by the review petitioners/plaintiff for permanent injunction restraining the defendant/respondent temple in dispossessing him from the suit property without following due process of law. On the basis of the materials placed on record, the trial Court was pleased to decree the suit as prayed for. However, the first appellate Court, on an appreciation of the evidence adduced in the matter as well as the pleadings put forth by the respective parties, set aside the judgement and decree of the trial Court and dismissed the suit laid by the plaintiff. Impugning the same, the plaintiff/review petitioners had preferred the second appeal.

4.This Court, in the second appeal, noting that the plaintiff had been inducted into the suit property only on the lease granted by the defendant temple once in three years and accordingly, after the expiry of the lease period, the plaintiff would not be entitled to seek further entitlement to remain the suit property without any authority and further, noting that the plaintiff has neither pleaded nor placed any material that he falls within the definition of tenant as defined under Tamil Nadu Public Trusts (Regulation of Administration of Agricultural Lands) Act, (LVII of 1961) and further noting that under Section 62 of the abovesaid Act, the Cultivating Tenants Protection Act, 1955 had been repealed and accordingly, the plaintiff seeking to perpetuate his occupation of the suit property endlessly, which he is not entitled to in the light of Section 34 of the H.R & C.E Act 22/1959, unless the parameters governing thereof are complied with and accordingly, the defendant temple, after the expiry of the lease period, had the entitlement to let the suit property to the successful bidder by way of conducting the public auction and in such view of the matter, held that the plaintiff has not been dispossessed by the defendant unlawfully and on the other hand, endeavoured to disposses him from the suit property only as per the procedure available under law and accordingly, for the abovesaid reasons discussed in detail, was not inclined to accept the submissions of the plaintiff's counsel and resultantly, concurred with the findings and conclusions of the first appellate Court and thereby, dismissed the second appeal preferred by the plaintiff.

5.Seeking to review the abovesaid judgment and decree as abovenoted, the present review application has been preferred. However, in the review application, the same arguments that had been made during the course of the second appeal had been reiterated by the counsel appearing for the review petitioners and he would again endeavour to project that the defendant temple is not endeavouring to disposses the plaintiff as per the provisions of the Tamil Nadu Public Trusts (Regulation of Administration of Agricultural Lands) Act, (LVII of 1961) and therefore, according to him, the judgment and decree sought to be reviewed requires reconsideration.

6.After hearing the submissions of the counsel appearing for the review petitioners as well as on a perusal of the impugned judgment and decree as well as the judgement and decree of the first appellate Court, it is seen that the plaintiff has not sought for the review of the judgment and decree in question based on any mistake or error apparent on the face of record or for any other sufficient cause or sought to review the matter on the discovery of any new and important matter or evidence, which had cropped up after the institution of the lis. On the other hand, it is seen that by way of the review application, the petitioner seeks to again reiterate his old arguments which had been repelled and in such view of the matter, when the review application is not maintainable, unless there is mistake or material error manifest on the face of the record and the review application cannot be equated as another appeal and in such view of the matter, when the plaintiff /review petitioners are found to have laid the review application only to rehear the matter again in the guise of the review petition and accordingly, unable to satisfy the parameters governing the review jurisdiction outlined under Order 47 Rule 1 CPC and furthermore, even assuming for the sake of arguments that the judgment sought to be reviewed is an erroneous judgement as sought to be made out during the

course of the arguments, the remedy available to the petitioners is to only challenge same in the higher forum in the manner known to law. In this connection, the principles of law governing the review jurisdiction adumbrated by the apex Court reported in (2013) 8 Supreme Court Cases 320 (Kamlesh Verma Vs Mayawati and others) are taken into consideration.

In the light of the above factors, I do not find any sound and valid reason for reviewing the judgement and decree dated 25.06.2018 passed in S.A.No.2273 of 2003 and resultantly, the review application is dismissed. Consequently, connected miscellaneous petition, if any, is closed.

10.10.2018

Index : Yes / No

Internet : Yes / No

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T.RAVINDRAN, J.

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Pre-Delivery Judgment made
in Review Application No.194 of 2018
in
S.A.No.2273 of 2003

10.10.2018