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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

Rev.Application No.165 of 2018
in
S.A.No.576 of 2017

Usharani .. Petitioner/Appellant

Vs.

R.Viswanathan .. Respondent/Respondent

PRAYER: Review Application is filed under Order 47 Rule 1 read with Section 114 of Code of Civil Procedure, to review the decree and judgment dated 07.11.2017 in Second Appeal No.576 of 2017.

Prayer in S.A.No.576/2017:

Second Appeal is filed under section 10 of CPC against the Judgment and Decree passed in A.S.No.32 of 2013 on the file of the Principal District Judge, Thiruvallur, dated 31.10.2013 partly confirming the Judgment and Decree passed in I.A.No.289 of 1996 in O.S.No.247 of 1996 on the file of Subordinate Judge, Poonamallee dated 30.04.2012.

For Petitioner : Mrs.Chitra Sampath
Senior Counsel assisted by
M/s.CPG.Yoganand

For Respondent : Mr.T.Viswanatha Rao

ORDER

The Review Application has been filed before this Court to review the order passed in the Second Appeal No.576 of 2017 dated 07.11.2017.

2. Aggrieved by the aforesaid decree and judgment passed by this Court, the appellant has preferred the appeal before the Hon'ble Supreme Court in S.L.P.(C).No.9821 of 2018



and the same was dismissed on 27.04.2018 with the observation that it was open to the petitioner to file an application for review, pursuant to which, the review application is present before this Court.

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3. After elaborately argued by both the counsel, the following terms were agreed between the parties:

(i) It is brought to the notice of this Court that the appellant filed the application before the Principal District Judge, Thiruvallur on 19.11.2014 in D.No.7923 of 2019 and the same is likely to be numbered and list before the Court below.

(ii) The learned counsel appearing for the respondent fairly stated before this Court that the decree and judgment passed by this Court need not necessarily be modified. At any stage, the impugned application filed by the petitioner/appellant may be disposed of in accordance with law, after providing opportunity to the respondent to file a counter affidavit.

4. It is brought to the notice of this Court the order of the Hon'ble Mr. Justice S. Nagamuthu (Retd) in S.A.No.663 of 2014 and pursuant to the aforesaid judgment, the Appellate Court has taken the matter afresh and now the order has been reserved by the Appellate Court. At this stage, the application before the Appellate Court being filed by the review applicant. The learned counsel appearing for the respondent also stated that the earlier judgment has been passed on merits. Therefore, the liberty may be given to the respondent to raise all the grounds before the Appellate Court.

5. The learned Senior Counsel for the review applicant submitted that the petitioner has raised the ground to consider his claim on equity, to allot the schedule property in favour of the review applicant and she would further submit that the petition may be decided on merits and not on maintainability.

6. In the light of the above submissions and hearing both parties:

(i) The Appellate Court shall number the petition filed by the petitioner if it is in order, within a period of two weeks from the date of receipt of copy of this order.

(ii) Liberty is granted to the respondent to file counter affidavit within a period of two weeks there after.

(iii) The learned Principal District Judge, Thiruvallur shall consider the implead application on merits as expeditiously as possible within a period of four weeks there after.



7. The Review Application is disposed of with the above terms. In the event of the implead application is allowed, the learned Principal District Judge, Thiruvallur is directed to dispose of the appeal suit as expeditiously as possible. No costs.

Sd/-
Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

vkr

To

- 1.The Principal District Court,
Thiruvallur.
- 2.The Subordinate Judge,
Poonamallee.
- 3.The Section Officer,
VR Section, High Court,
Madras-104.

+lcc to Mr.CPG.Yoganand & Associates, Advocate SR.100942
+lcc to Mr.T.Viswanathan Rao, Advocate SR.100936

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MR (CO)
CB (14/02/2020)