

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

Review Application No.196 of 2019

and

C.M.P.No.20651 of 2019

(Through video-conferencing)

1.Mrs.Lilian Alphonse

2.Mr.Dominic Louis

3.Ms.Dolly Louis

: Petitioners/Petitioners

Vs.

1.Mr.Joseph Benedict Louis

2.The Bank Manager,
ICICI Bank Limited,
Besant Nagar Branch,
Chennai-600 090.

: Respondents/Respondents

PRAYER: Review Application is filed under Order XLVII Rule 1 r/w Section 114 of the Civil Procedure Code along with Article 227 of the Constitution of India, praying to review the impugned order made in C.R.P.No.2060 of 2019 on 24.07.2019 thereby to take I.A.SR.No.59949 of 2017 and I.A.SR.No.59951 of 2017 in I.A.No.122 of 2017 in O.S.No.1496 of 2016 on file and number the same and allow the above C.R.P.No.2060 of 2019 and enabling these petitioners to get sufficient flexible time to prove their case in O.S.No.1496 of 2016, without delimiting the time period to complete the fair trial.

Prayer in CRP.2060/2019:

Petition filed Under Article 227 of the Constitution of India, to set aside the order dated 26/10/17 in I.A.SR.No.59949/2017 in IA.NO.122/2017 in O.S.No.1496/2017 by the XVIII Additional City Civil Court, Chennai.

For Petitioners : Mr.A.Kumanaraja

For Respondent No.1 : Mr.J.Justin

ORDER

This Review Application is taken up for hearing through video-conferencing.

2. The petitioners filed the above Review Application on the ground that the order is error apparent on the face of the record in view of certain observations.

3. According to the petitioners, they filed a petition for injunction under Order 39 Rules 1 and 2 of the Code of Civil Procedure vide I.A.No.122 of 2017. On service of notice, the first respondent/first defendant made an endorsement that he undertakes not to give any disturbance to the petitioners/plaintiffs. With that endorsement, the petition was closed. Thereafter, there was construction in violation of the undertaking. Hence, the petitioners/plaintiffs filed an application to initiate contempt proceedings against the respondents, vide I.A.(SR)No.59949 of 2017. The said application was rejected at the SR stage, against which, they preferred the Civil Revision Petition.

4. While disposing of the Civil Revision Petition, at Paragraph No.4, the Court observed that the suit is filed for declaration to declare the sale deed as null and void. But, in fact, what has challenged in the suit is 'settlement deed'. That correction should be carried out.

5. Accordingly, the Registry is directed to correct the order at Paragraph No.2 to the effect that "the Trial Court dismissed the Contempt Petition filed by the petitioners/plaintiffs vide I.A.(SR)No.59949 of 2017, against which, the petitioners preferred the above Civil Revision Petition", instead of "Now that the Trial Court has dismissed the interlocutory application filed for injunction, against which, the petitioners preferred the above Civil Revision Petition." At Paragraph No.4, instead of the word 'sale deed', the word 'settlement deed' should be substituted.

6. The Registry is directed to issue a corrected order copy accordingly.

7. The learned counsel appearing for both sides would submit that pursuant to the order passed by this Court, the Trial Court has completed the evidence of parties and it is now posted for arguments.

8. In view of the above, on the date of arguments, both the parties are directed to make their submissions before the Court below. While deciding the suit, the Court below shall also decide the interlocutory applications in I.A.(SR)No.59949 of 2017 and I.A.(SR)No.59951 of 2017 along with the suit.

9. The Review Application is ordered accordingly. No costs.
Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

SML

TO:

The XVIII Additional District Judge,
XVIII Additional City Civil Court,
Chennai.

Copy to:

The Registrar,
City Civil Court,
Chennai.

Order made in
Review Application No.196 of 2019
and
C.M.P.No.20651 of 2019

vd(co)
nr 27/09/2019