

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 02.04.2019

PRONOUNCED ON:04.04.2019

CORAM:

THE HON'BLE MR.JUSTICE T.RAVINDRAN

Review Application Nos.14,38 and 43 of 2019
in
S.A.Nos.306, 305 and 304 of 2015

Amin Bibi (deceased)

1.Syed Jaffer

2.Syed Kadar

... Review Petitioners

Vs.

1.Syed Bashu

2.Sekhar

3.Thangaraju

... Respondents

Common Prayer in Review Application Nos.14,38 and 43 of
2019:

Review Applications are filed under Order XLVII Rule 1 read with Section 114 of the Code of Civil Procedure against the common judgment and decree dated 02.11.2018 in S.A.Nos.306, 305 and 304 of 2015.

For Review Petitioners :Mr.G.Ilamurugu

COMMON ORDER

The above Review applications are directed to review the judgment and decree passed by this Court in S.A.Nos.304, 305 and 306 of 2015 dated 02.11.2018.

2. The Second Appeal Nos.304, 305 and 306 of 2015 are directed against the judgment and decree dated 28.04.2011 passed in A.S.Nos.27, 146 and 147 of 2008 on the file of the Subordinate Court, Perambalur, reversing the judgment and decree dated 10.01.2007 passed in O.S.Nos.498, 781 and 598 of 2004 on the file of the District Munsif Court, Perambalur.

3. The main point that arises for consideration in the abovesaid matter is with reference to the validity of the settlement deed dated 08.02.1993 executed by Amin Bibi in favour of the first respondent, which document has come to be marked as Ex.B1. Thus after analysing the materials placed on record, noting that Amin Bibi herself has admitted the execution of the settlement deed in favour of the first respondent as regards the suit properties and however would claim subsequently that she had cancelled the same by way of the deed of cancellation dated 19.05.1995 marked as Ex.A1 and on the other hand

noting that pursuant to Ex.B1 settlement deed, this Court had found that it is only the first respondent who had been put in the possession and enjoyment of the suit properties by the settlor Amin Bibi and accordingly the first respondent had also placed reliable and convincing materials to hold that it is he who has been in the possession and enjoyment of the suit properties and it is he who had inducted Thangaraj as the tenant in respect of the first item of the suit properties and accordingly further noting that Amina Beebi having no case to resist the title of the first respondent in respect of the suit properties, accordingly had also filed a memo submitting to the decree in O.S.No.604 of 1995 laid by the first respondent and resultantly the said suit ending in a decree in favour of the first respondent and on the basis of the abovesaid factors and the other materials placed on record determined that the claim of Amina Beebi that she had revoked the settlement deed Ex.B1 by way of the deed of cancellation Ex.A1 does not have legal sanctity and accordingly rejected the abovesaid case putforth by the Review Applicants. Furthermore, this Court has also noted that the mere fact that Amina Beebi had been failed to be looked after by the first respondent, would not entitle her to revoke the settlement deed executed by her under Ex.B1 and furthermore also noting that Amina Beebi would not be entitled to challenge the decree

passed in O.S.No.604 of 1995 as she would be legally barred with reference to the same as detailed in the judgment under review and further noted that the suit laid by Amina Beebi with reference to the same is not legally sustainable, by taking into consideration, the position of law with reference to the same in detail, accordingly held that Ex.B1 settlement deed is a valid document and by way of the said settlement, it is only the first respondent who had obtained the legal right, title and interest in respect of the suit properties and thereafter Amina Beebi is not entitled to revoke the same and accordingly holding that it is only the first respondent who is in the possession and enjoyment of the suit properties by asserting title to the same one way or the other as detailed in the judgment, finally concluded that the second appeals projected by the review applicants do not merit acceptance and accordingly dismissed all the second appeals with costs by way of the impugned judgment and seeking to review the said judgment passed in the second appeals, the present review applications have come to be laid.

4. The review applicants have putforth the same points for consideration as had been already canvassed by them at the time when the second appeals are taken up for hearing and accordingly

pressed the same points contending/urging that the Court had not taken into consideration, the position of law with reference to the case projected by the review applicants in the right perceptive and accordingly the same requires to be reviewed and on that reasonings contended that the review application should be entertained.

5. On going through the judgment under review as above pointed out, this Court had taken into consideration all the materials placed on record and after analysing the same and the respective contentions put forth with reference to the same, both on the part of the review applicants as well as the first respondent, finding that the review applicants have no case at all, to disturb the findings and contentions of the first appellate court, accordingly rejected their case and also found that their case, as projected by them, is not legally sustainable. In such view of the matter, when this Court had taken into consideration all the contentions put forth by the respective parties and decided the same one way or the other, by way of the review applications, the review applicants cannot be allowed to reiterate the same points and seek thereby a further hearing in the second appeals with reference to the same points already canvassed by them and determined by this Court by way of the judgment and decree under

review.

6. In the light of the abovesaid position, inasmuch as the review applicants have projected the same points which had already been canvassed by them and determined by this Court and if at all the review applicants are aggrieved over the judgment passed by this Court in the second appeals, their remedy being elsewhere and not by way of review applications and when the judgments under review are not found to be suffering from any mistake or error apparent on the face of the record or the review applicants having also not placed any other sufficient cause for reviewing the judgment, under consideration, in all, it is found that the review applications preferred by the applicants are not legally sustainable and found to be devoid of merits and therefore liable to be dismissed.

7. In this connection, the principles of law outlined by the Hon'ble Apex Court in the decision reported in **2013 (8) SCC 320 [Kamlesh Verma Vs. Mayawathi and Others]**, are taken into consideration.

8. The review applicants in support of their contentions placed

reliance upon the decision of the Apex court dated 26.10.2018 rendered in **Civil Appeal No.10785 of 2018 [S.Sarojini Amma Vs. Velayudhan Pillai Sreekumar]**. The principles of law outlined in the abovesaid decision are taken into consideration and followed as applicable to the case at hand.

9. In such view of the matter, the Review Applications are found to be devoid of merits.

10. In conclusion, the Review Applications are dismissed. Consequently, connected miscellaneous petition, if any, is closed.

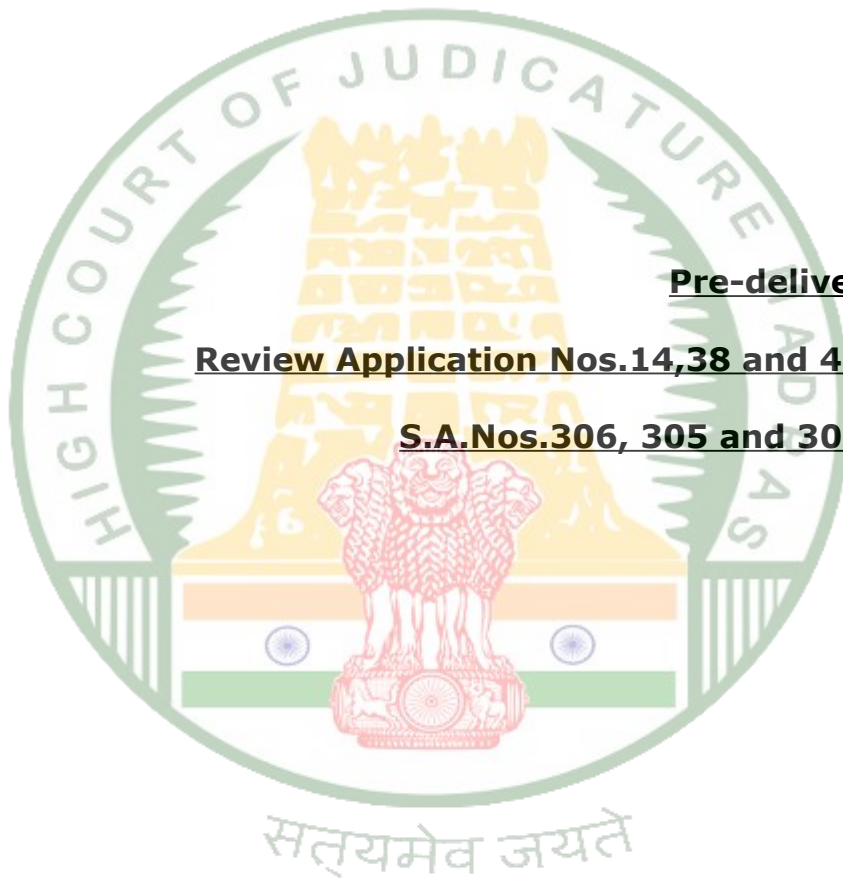
04.04.2019

mfa
Index:yes
Internet:yes

WEB COPY

T.RAVINDRAN, J.

mfa



Pre-delivery Order
made in
Review Application Nos.14,38 and 43 of 2019
in
S.A.Nos.306, 305 and 304 of 2015

WEB COPY **04.04.2019**