

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

Review Application (SR).No.42751 of 2018
and C.M.P.No.12440 of 2018

1.Purushottam Lal Thirad

2.M.Deendayal Thirad

3.M/s.Cabco Paradise (P) Ltd.,
rep by its Managing Director
Purushottam Lal Thirad
D-33, Anna Nagar East,
Chennai - 600 103.

... Petitioners

Vs.

1.Lakshmi

2.M/s.Aburupam & Co.,
rep by its Partner
S.Kalavathy & S.Lakshmi
No.66, P.V.Koil Street,
Chennai - 600 012.

... Respondents

Review Application filed under Order 47, Rule 1 of the Code of Civil Procedure read with Section 114 against the judgment dated 22.11.2017 passed in A.S.721 of 2018.

For Review Applicant : Mr.Rajendra Prasad Tayal - no appearance

ORDER

When the matter was listed for hearing on 05.04.2019, Mr.Rajendra Prasad Tayal, learned counsel appearing for the review applicant submitted that the erstwhile counsel Mr.A.Ramesh Kumar, Advocate, No.340, Additional Law Chambers, High Court Buildings, Chennai - 600 104, had left the practice and joined employment, therefore, the learned counsel has not filed the Review Application. Further, the learned counsel submitted that since the erstwhile counsel had left the practice and joined employment, the ratio laid down by the Hon'ble Supreme Court in the judgment reported in **1997-2-L.W. 326 (1) [M.Poornachandran & Anr. Vs. State of Tamil Nadu & Ors.]** is not applicable. In view of the submission made by the learned counsel for the review applicant, this Court directed the review applicant to file an affidavit from the erstwhile counsel viz., Mr.A.Ramesh Kumar to the effect that he left practice and joined employment with a Private Company. At the request of the learned counsel for the review applicant, the matter was adjourned for filing the affidavit.

2.Subsequently, when the matter was listed for hearing on 16.09.2019, the learned counsel for the review applicant was not present. However, Mr.A.S.Balaji, Advocate, who had filed vakalat on behalf of the appellants in A.S.No.721 of 2010 along with Mr.A.Ramesh Kumar appeared

before this Court and submitted that Mr.A.Ramesh Kumar, Advocate, is very much practicing in this Court and that he would ask Mr.A.Ramesh Kumar to appear before this Court and file an affidavit to that effect.

3.In view of the submission made by Mr.A.S.Balaji, Advocate, the matter was adjourned to today (i.e.) 23.09.2019. Today also, Mr.Rajendra Prasad Tayal, the learned counsel for the review applicant failed to appear before this Court. However, Mr.A.Ramesh Kumar, Advocate, appeared before this Court and filed an affidavit dated 17.09.2019 stating as follows:

“1.I submit that, I have been enrolled as an Advocate in the year 1993 (Enrollment No.320/1993) and I am practicing actively and continuously since 1993 in the High Court of Madras and other forums.”

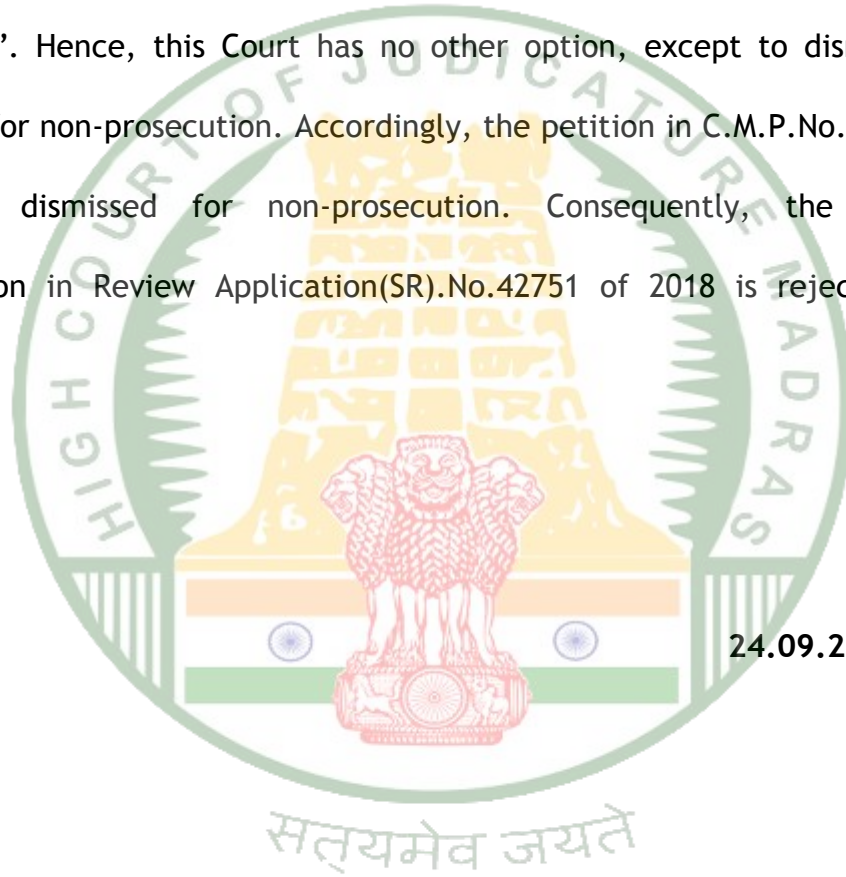
4.Mr.A.Ramesh Kumar, Advocate submitted that he is very much practicing in this Court and he has not left practice at any point of time.

5.The affidavit dated 17.09.2019 filed by Mr.A.Ramesh Kumar, Advocate, is taken on record.

6.Since there was no representation on 23.09.2019, the Registry was directed to list the matter under the caption “for dismissal” today (i.e.) 24.09.2019. Today also there is no representation for the petitioner inspite of the fact that the matter has been listed under the caption “for dismissal”. Hence, this Court has no other option, except to dismiss the Petition for non-prosecution. Accordingly, the petition in C.M.P.No.12440 of 2018 is dismissed for non-prosecution. Consequently, the Review Application in Review Application(SR).No.42751 of 2018 is rejected. No costs.

va

24.09.2019



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Review Application (SR).No.42751 of 2018

M.DURAISWAMY,J.
va



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