



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.S. SUNDAR

Rev. Aplc(MD).No.136 of 2019

1.Ravichandran @ Murugan
2.Boominathan
3.Sundaram
4.Jeyaprakash .. Review Petitioners/Respondents

Vs.

1.P.V.Parasuraman (Died)
2.Krishnaveni
3.P.Vijayalakshmi
4.S.Kasthuri
5.P.Indira .. Respondents 1 to 5/Appellants 1 to 5

6.The Sub Registrar,
Theni Sub Registrar Office,
T.R.T. Road,Theni Town & Taluk,
Theni District. .. 6th Respondent/Respondent No.5

Prayer in Review Application: Review application filed under Order XLVII Rule 1 and 2 r/w Section 114 of C.P.C. to review the judgment and decree passed by this Court in S.A.(MD).No.128 of 2013, dated 12.09.2018.

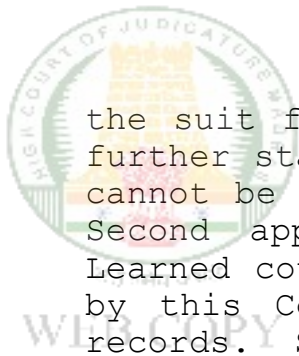
Prayer in Second Appeal: Second Appeal filed under Section 100 of Civil Procedure Code, against the Judgment and Decree, dated 19.10.2012 passed in A.S.No.9 of 2009 on the file of the Additional District Sessions Court, Theni at Periyakulam confirming the judgment and decree dated 13.04.2009 in O.S.No.21 of 2008 on the file of the Sub Court, Theni.

For Petitioners : Mr.M.S.Balasubramania Iyer

O R D E R

The review petitioner challenges the judgment of this Court in the Second Appeal on merits and not on any error apparent on the record.

2.The learned counsel submits that the property is not in the enjoyment of the appellants in the second appeal and that therefore



the suit for bare injunction is not maintainable. Learned counsel further states that in a suit for bare injunction question of title cannot be decided and that therefore the judgment of this court in Second appeal is contrary to the well established principles. Learned counsel further submits that the property has been presumed by this Court as a vacant land and that it is contrary to the records. Since the land in dispute is a cultivable land, this Court ought not to have applied the principle that possession follows title.

3.Though there are other grounds raised in the review petition, this Court on a perusal of grounds found that the review petitioner questions the findings of this Court in Second Appeal and the counsel argue how the judgment is erroneous. This Court and the Honourable Supreme Court has repeatedly held that review is not an appeal in disguise. If the judgment is erroneous in the view of the review petitioner, it is open to him to file a Special Leave Petition before the Honourable Supreme Court in the manner known to law. However, the judgment of this Court cannot be questioned on merits by submitting that the judgment of this Court in second appeal is contrary to law. Even if an error has to be deducted by a process of reasoning it is not an error apparent so as to file a review under Order 47 Rule 1. In such circumstances, this Court is unable to find any ground to sustain the review petition.

4.As a result, this review petition is dismissed as devoid of merits.

5.Learned counsel for the review petitioner then sought for permission of this Court to grant leave. Having regard to the factual and legal issues considered by this Court, this Court does not find any substantial question of law of public importance. Hence, the request is declined.

Sd/-

Assistant Registrar (CS III)

// True Copy //

Sub Assistant Registrar(CS)

TM

+1 CC to M/s.BALASUBRAMANIA IYER, Advocate (SR-81282[F] dated 13/08/2019)

+1 CC to M/s.SPL GP (SR-82477[F] dated 20/08/2019)

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<https://hcservices.ecourts.gov.in/hcservices/>