

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

Review Application No.24 of 2020

1. Munusamy (Died)
2. Anusuya
3. M.Selvam
4. Rajakumari
5. M.Bhuvaneswari ... Review Applicants/Appellants

VS.

1. Pothu Ammal
2. Sampath Mudaliar ... Respondents / Respondents

Review Application has been filed under Order 47 Rule 1 read with Section 114 of the Civil Procedure Code, praying to review the judgment and decree passed in S.A.No.33 of 2014 dated 23.09.2019 and allow this review application.

Second Appeal filed under Section 100 of C.P.C to set aside the Decree and Judgment in A.S.No. 201 of 2002 and I.A.No. 222/2004 dated 18/10/2005 on the file of Subordinate Judge Arani, Confirming the decree and Judgment passed in O.S.No. 677 of 1989 dated 24.12.1999 on the file of the Principal District Munsif Arani.

For Review Applicants: Mr. P.Dinesh Kumar
For Respondents : Mr.S.Umapathy

J U D G M E N T

This matter is taken up for hearing through Video-Conferencing.

The appellants in SA No.33 of 2014 have come up with this Review Application. The suit was filed by the plaintiffs seeking a declaration of their right over the suit lane and permanent injunction restraining the defendants from interfering with the possession and enjoyment of the plaintiffs.

2. The suit was resisted by the defendants contending that the plaintiffs have no right over the alleged suit lane, while admitting the existence of the suit lane. Originally the suit

was decreed by the Trial Court, on Appeal the Appellate Court set aside the judgment of the Trial Court and remitted the matter with liberty to the parties to let in further evidence. Despite such liberty having been granted, the plaintiffs did not choose to let in any further evidence. The defendants produced Ex.B4 the partition Deed entered into between the plaintiff and his brother to demonstrate that the plaintiff has no right over the suit lane. The plaintiffs were content with producing a Sale Deed Ex.A1 under which the defendants had purchased the suit property which shows the existence of a Narasam (suit lane) on the north of the plaintiffs' property.

3. The Courts below had rejected the claim of the plaintiffs on the ground that mere proof of existence of the lane will not vest any right on the plaintiffs. The Courts also relied upon the Partition Deed Ex.B4 which was not disputed. Aggrieved by the dismissal of the suit, the plaintiffs had preferred the above Second Appeal in a Second Appeal No.33 of 2014. Even while arguing the Second Appeal, the contention of the plaintiffs were that in view of Ex.A1 Sale Deed they got a right over the suit lane.

4. The said contention was rejected by me on the ground that mere existence of the suit lane will not prove that the plaintiffs have got an exclusive right over the same. The documentary evidence in the form of Ex.B4 also militated against the claim of the plaintiffs. Taking note of the above evidence that was available on record, I had concluded that there is no question of law in order to enable me to entertain the Appeal. The appellants now seek review of the judgment on the very same ground that I had over looked the recitals in Ex.A1. I had in fact dealt with the recitals in Ex.A1 in the judgment which is under Review.

5. Despite its best efforts Mr.P.Dinesh Kumar, learned counsel appearing for the Review petitioner is unable to make out a error on the face of the record to enable me to entertain the review. The review therefore fails and accordingly it is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

TO

- 1.The Subordinate Judge,
Arani.
- 2.The Principal District Munsif,
Arani.

Review Application No.24 of 2020

MJB (CO)
GN (29/12/2020)