

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2020

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

REV.APLN.No.19 of 2020

M.Lakshmi

..Appellant

vs.

1.The Secretary D.D.9 Uthangarai Agriculture Products
Co-operative Sales Societies Ltd,
Uthangarai,
Krishnagiri District.

2.Deputy Registrar to Co-operative
Dharmapuri,
Dharmapuri District.

...Respondents

Review Application filed under Order Section 14 and Order
47 Rule 1 of C.P.C, to review the judgment and decree dated
03/12/2019 made in C.M.P.No.943 of 2019 on the file of this Court.

For Appellant : M.Lakshmi
party in person.

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J U D G M E N T

This review petition is filed to review the order passed by this Court on 03.12.2019 in Tr.C.M.P.No.943 of 2013.

2. The party in person articulated her points by contending that she has not borrowed any loan amount from the first respondent and by creating certain forged document, the Society had initiated action against the petitioner. The actions were already initiated under the provisions of the Tamil Nadu Co-operative Societies Act and now the case is pending before the Principal District Judge, Krishnagiri. All the merits and the documents are to be scrutinized by the Principal District Judge, Krishnagiri and raising certain grounds, the petitioner filed TR.C.M.P.No.943 of 2019, to transfer the case from the Principal District Judge, Krishnagiri to any other District Court in Chennai.

3. The allegations set out in the transfer civil miscellaneous petition were considered by this Court and a detailed order was passed on 03.12.2019 as under:

11. In the present case, though the petitioner states that she is unable to go to Krishnagiri, she appeared in person before this Court and able to articulate her case and further insisted this Court to grant transfer, which seems to be with some motive. Such personal perceptions of the litigant, cannot be granted to transfer the case from one District to another District. Actions were initiated against the petitioner under the provisions of the Tamil Nadu Cooperative Societies Act, 1983 with reference to certain loan transactions. Thus, all such facts and circumstances are to be adjudicated with reference to the documents and evidences available. The petitioner is able to present her case by narrating the entire facts and under these circumstances, her contention that she cannot defend her case before the District Court at Krishnagiri, is unacceptable.

12. As per the informations provided by the Registry of the High Court, the District Court at Krishnagiri is proceeding with the case as expeditiously as possible and on account of non-cooperation on the part of the petitioner, the learned Principal District Judge, Krishnagiri is unable to pass orders within the time limit. Under these circumstances, this Court has to draw an inference that the petitioner is filing the present Transfer Civil Miscellaneous

Petition second time in order to choose the Court at her choice. 'Bench hunting' or 'Forum shopping' are heavily condemned by the Hon'ble Supreme Court of India. Litigant cannot choose Forum. Certain flimsy grounds cannot be accepted for the purpose of transferring the cases from one District to another District. When the case is on the verge of disposal, transfer applications cannot be entertained in a routine manner. The parties making certain assessments of their own are filing such transfer applications in order to prolong and protract the litigation, which can never be encouraged by the Courts. Thus the very intention of filing the present Transfer Civil Miscellaneous Petition once again by the petitioner, cannot be appreciated but to be deprecated.

13. This being the factum, the learned Principal District Judge, Krishnagiri District, is directed to dispose of the case, within a period of six weeks from the date of receipt of a copy of this order. It is made clear that no unnecessary adjournment is to be granted and even in case of any request for adjournment by either of the parties, the same may be granted by recording reasons, which must be acceptable. The petitioner is directed to cooperate for the early disposal of CMA(CS) No.8 of 2014. In the event of any non-cooperation on the part of the petitioner, then the

same shall be recorded by the learned Principal District Judge, Krishnagiri District in the Court proceedings itself.

14. With the above directions, the present Transfer Civil Miscellaneous Petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are also dismissed.

4. The present review petition is filed to review the said judgment. This Court has carefully perused the grounds set out in the review petition. The review petitioner in person also argued the case for about 15 minutes and she argued the merits of the case, which was now pending before the Principal District Judge, Krishnagiri. The merits and demerits, which are all to be decided, based on the document and evidence placed before the Learned Principal District Judge, Krishnagiri, cannot be adjudicated in a Transfer Civil Miscellaneous Petition or a Review Petition filed at present. The Transfer petition was already disposed of by this Court and the present review petition is filed. All the grounds raised in the review petition are relating to the merits of the case, which cannot be adjudicated, more specifically, in a review petition.

5. The review petitioner has not made out any acceptable ground for the purpose of reviewing the judgment already delivered in order dated 03.12.2019. The party in person is unable to point out any error apparent on record or defect so as to consider the review petition. The scope of the review under Order 47 Rule 1 of C.P.C is undoubtedly limited. Re-adjudication of the merits is impermissible. Only the error apparent on the face of the record alone can be entertained for the purpose of correcting the same in the review petition and not otherwise.

6. The Hon'ble Supreme Court of India in the case of **Persion Devi and Ors v. Sumithra Devi & Ors [1997 (8) SCC 715]**, held that reviewing a judgement on error apparent on the face of the record, is distinct from erroneous decisions. Thus, erroneous decision cannot be a ground for entertaining a review petition and only an error apparent on the face of the record alone can be entertained as a ground for review.

7. The review jurisdiction cannot be used as an Appellate Jurisdiction and as defined, the word "mistake" or "error" apparent on the face of the record. As per Order 47 Rule 1 CPC, the judgement may be opened to review, *inter alia*, if there is a mistake or an error apparent on the face of the records. An error which is not self-evident and has to be detected by a process of reasoning can hardly said to be an error apparent on the face of the record justifying the Court to exercise its power of review in exercise of the jurisdiction under Order 47 Rule 1 CPC. It is impermissible for an erroneous decision to be "re-heard and corrected" and there is a clear distinction between an erroneous decision and an error apparent on the face of the record.

8. A review application has a limited purpose and cannot be allowed to be an Appeal in disguise. The case across the country held that where the grounds enumerated under Order 47 Rule 1 CPC is imminent and in the absence of satisfying the ingredients, no Review Application would lie. Further, it is stated that the Review Application is not a process of re-hearing of the whole matter, which had been earlier finally disposed of and the Review Application filed by the

petitioners herein exactly attempts to do the same. The Review Application should be accepted or rejected has to be decided with reference to the grounds on which the review is permissible and not on the merits of the claim. The Hon'ble Supreme Court in the case of reported in *AIR 2000 SC 1650* held that a Review Application is for a correction of mistake and not for substitution of views. A point which may be a good ground for an appeal need not be a good ground for an application for review. Thus, an erroneous view of evidence or of law is no ground for a review, though, it may be a good ground for an appeal. The grounds of Review Applications presently filed does not make out an evidence or error on the judgement of this Court.

7. In the case of ***DR.SUBRAMANIAN SWAMY vs.STATE OF TAMILNADU AND OTHERS reported in (2014)5SCC75***, the Supreme Court of India reiterated that *"Thus, even an erroneous decision cannot be a ground for the court to undertake review, as the first and foremost requirement of entertaining a review petition is that the order, review of which is sought, suffers from any error apparent on the face of the order and in absence of any such error, finality*

attached to the judgment/order cannot be disturbed.”

8. As far as the *lis* on hand is concerned, the review is filed without any acceptable legal ground. The party in person is litigating the transfer petition on certain flimsy grounds as she has got certain ill-idea of prolonging and protracting the issues so as to gain time or to frustrate the proceedings. Such behaviour of litigant can never be appreciated but has to be deprecated. Therefore, the Court cannot encourage such practice of filing review application on certain flimsy grounds, when the merits in this case had already been adjudicated by this Court in the Transfer Civil Miscellaneous Petition, and a detailed order was passed by this Court on 03.12.2019. Such repeated petitions are filed, in order to prolong the issue and the same has to be viewed seriously.

9. In the case of Dr.Subramanian Swamy cited supra, the Supreme Court awarded exemplary costs. However, this Court is not inclined to award any exemplary costs, in view of the fact that the petitioner appeared in person and that she is a aged woman.

However, the practice of filing such petition with an assistance of few lawyers, who are all standing back to the clients, cannot be appreciated by this Court. Such lawyers, who are all preparing pleadings in favour of the party in person, should also realise that they are also duty bound to stand for the cause of justice and not to encourage such attitude of the litigants for certain monetary consideration.

10. This being the factum, this Court is of the considered opinion that the present review petition is not supported by any acceptable ground so as to invoke the powers conferred under Order 47 Rule 1 of C.P.C and accordingly, the review petition is devoid of merits and stands dismissed. No costs.

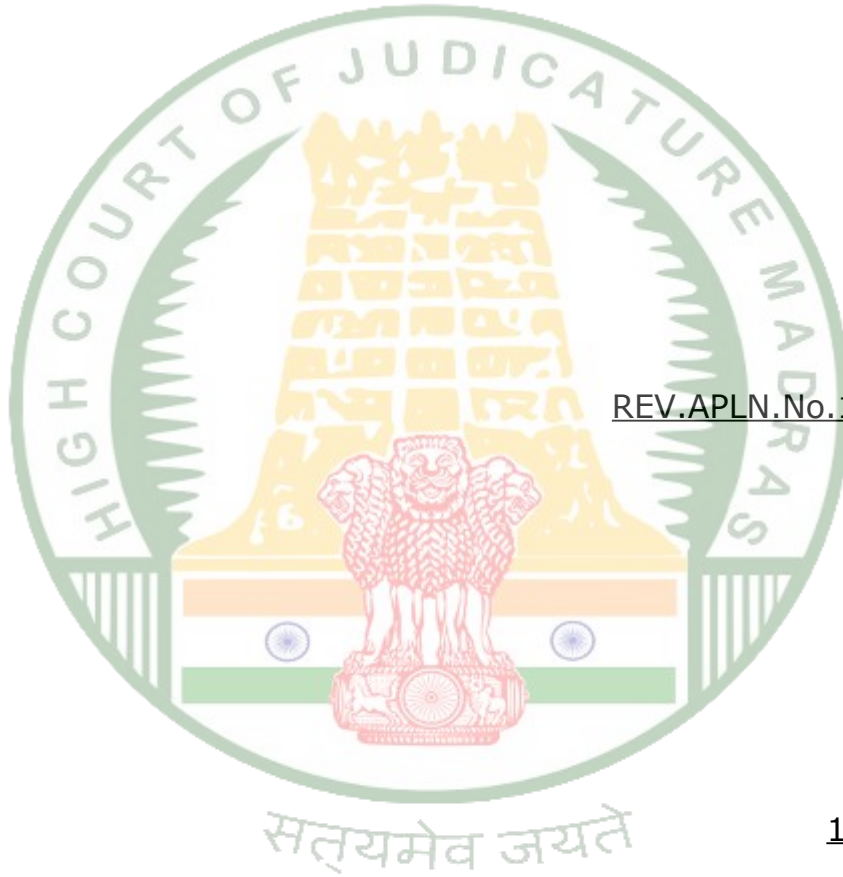
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Index : Yes/No
Internet: Yes/No
Speaking order/Non-speaking Order
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S.M.SUBRAMANIAM, J.

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