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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.04.2019

CORAM :

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Review Application (MD)No.167 of 2018
against C.R.P(MD).No.193 of 2017
and C.M.P.(MD).No.10131 of 2018

S.K.Veluchamy @ Stephan .. Review Petitioner/Petitioner
Vs.

K.Kalimuthu .. Respondent/Respondent

PRAYER: Review Application filed under Order 47 Rule 1 and 2 of C.P.C, to review the order dated 31.01.2017 made in C.R.P.(MD). No.193 of 2017, on the file of this Court.

PRAYER IN CRP(MD).193 OF 2017:

Civil Revision petition filed Under Section 115 of the C.P.C. To set aside the fair and Decreetal order dated 10.12.2015 passed in I.A.No.243 of 2015 in O.S.No.222 of 2013 on the file of the Sub Court, Theni by allowing the Civil Revision Petition.

Petitioner : Mr.S.K.Veluchamy @ Steephany,
party-in-person

O R D E R

The present Review Application is filed to review the order dated 31.01.2017 made in C.R.P.(MD).No.193 of 2017, on the file of this Court.

2.According to the petitioner, in the suit filed by him, the respondent was set exparte and exparte decree was passed on 08.08.2014. The respondent filed I.A.No.243 of 2015 in O.S.No.222 of 2013 to condone the delay of 233 days in filing the petition to set aside the exparte decree making false averments in the affidavit filed in support of the above petition stating that the petitioner has given wrong address of the respondent in the suit and the suit summon was not served on him. The learned Judge allowed the application in I.A.No.243 of 2015 on condition that the respondent has to pay a sum of Rs.5,000/- to the petitioner on or before 17.12.2015. Against the said order, the petitioner filed CRP (MD) No.889 of 2017. This Court, by order dated 31.01.2017,



dismissed the Civil Revision Petition on the ground that the application to condone the delay must be considered liberally and parties must be given sufficient opportunity to put forth their case on merits. In the review petition, the petitioner has argued the very same grounds that the respondent has made false averments in the affidavit filed in support of the Interlocutory Application No.243 of 2015 and prayed for dismissal of I.A.No.243 of 2015 by reviewing the order dated 31.01.2017 made in C.R.P.(MD).No.193 of 2017.

3. Heard the learned counsel appearing for the review petitioner and perused the materials available on record.

4. It is well settled that in a Review Application, the review applicant is not entitled to re-argue the matter afresh or put forth any new points. Only when there is an error in the order sought to be reviewed, the Review Application can be entertained. The Review Application is not an appeal. The learned counsel for the petitioner has not pointed out any error in the order dated 31.01.2017 made in C.R.P(MD)No.193 of 2017.

5. The scope of review was considered by the Hon'ble Apex Court in a judgment reported in **2000 (6) SCC 224 [Lilli Thomas and Others Vs. Union of India and Others]**, wherein, in paragraph 52, it was held as under:

*"52. The dictionary meaning of the word "review" is "the act of looking, offer something again with a view to correction or improvement". It cannot be denied that the review is the creation of a statute. This Court in **Patel Narshi Thakershi Vs. Pradyumansinghji Arjunsinghji [1971 (3) SCC 844 : AIR 1970 SC 1273]** held that the power of review is not an inherent power. It must be conferred by law either specifically or by necessary implication. The review is also not an appeal in disguise. It cannot be denied that justice is a virtue which transcends all barriers and the rules or procedures or technicalities of law cannot stand in the way of administration of justice. Law has to bend before justice. If the Court finds that the error pointed out in the review petition was under a mistake and the earlier judgment would not have been passed but for erroneous assumption which in fact did not exist and its perpetration shall result in a miscarriage of justice nothing would preclude the Court from rectifying the error."*

(emphasis supplied)

6. A Division Bench of this Court in a judgment reported in **"2014 (3) TLNJ 245 (Civil) [M.Jai Kavitha Vs. The Authorised Officer, Syndicate Bank, Regional Office, Chennai - 1 and others]"**, has considered the scope of judicial review, wherein the decision



of the Honourable Apex Court was noted with approval. Paragraph No.9 of the said Judgment reads as under:

"9.The power of review under Order 47 Rule 1 of CPC can be exercised by a court of law, if the order in question comprises a mistake or an error apparent on the face of record. Once an order is pronounced, it should not be altered, unless there is an apparent error. Law is well settled that erroneous finding is not a ground for review, so also improper consideration for that matter. In review application, the court does not sit in appeal over its own judgment and the said application cannot be treated as an appeal. This position has been ruled by the Supreme Court in Lily Thomas Vs. Union of India [2000 (6) SCC 224]. Therefore, in the absence of any error apparent on th face of record, we are not inclined to interfere with the order in question, except to the extent of deleting of the portions in paragraphs 14 and 15 of the impugned order, with which the applicant is concerned as to having an impact on the proceedings pending before the tribunal, as stated in the foregoing paragraph."

(emphasis supplied)

7. The above two decisions were also followed by me in Review Application (MD) No.142 of 2014, dated 25.11.2014, wherein it has been held that a person in review is not entitled for re-hearing the issue.

8. In the light of the dicta laid down by the Honorable Apex Court as well as by the Division Bench of this Court, I am of the considered view that the earlier order of the Court can be re-considered only if there is an error apparent on the face of record and in that event, the said error can be rectified. Otherwise, a Review Application is not at all maintainable. In the present case, the Review Applicant failed to raise any ground, reason or cause warranting to review the order passed by this Court.

9. Therefore, I do not find any error apparent on the face of record in the order dated 31.01.2017 made in C.R.P(MD).No.193 of 2017. Accordingly, the Review Application fails.

10. In the result, the Review Application is dismissed. No costs. Consequently, connected M.P. is closed.

Sd/-

Assistant Registrar(CS-III)

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TO

THE SUBORDINATE JUDGE, THENI.

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MA (CO)

TR (26.06.2019) 4P 2C