



CRP (NDP) No.2464 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CRP (NDP) No.2464 of 2021

K.Selvaraju

... Petitioner

Vs

K.Tamilselvan

... Respondent

Prayer: The Civil Revision petition filed under Article 227 of Constitution of India, against the order, dated 14.09.2021 passed in unnumbered I.A.No. of 2021 in O.S.No.40 of 2011 on the file of the learned Principal District Judge, Namakkal.

For Petitioner : Mr.N.Subramanian

ORDER

This revision is against an order, rejecting an application filed by the petitioner seeking to recall the Judgment in O.S.No.40 of 2011.

2. The said suit was filed by the respondent seeking money decree and the same came to be decreed after contest on 09.01.2019. The said



Judgment and decree were challenged, unsuccessfully, before this Court in A.S.No.325 of 2019 which came to be disposed on 05.03.2021. Thereafter, the petitioner has filed the instant application with the following prayer:

“For the reasons stated in the accompanying affidavit, for the reasons stated above, it is prayed that this Hon'ble Court may be pleased to recall the Judgment and decree even dated 09.01.20219 passed by the this Hon'ble Court in O.S.No.40 of 2011 and thus render justice” (sic)

3. In the affidavit filed in support of the application, the petitioner has alleged that the respondent has played fraud on Court by producing false evidence and has managed to obtain a decree. This is my considered opinion, cannot be canvassed in an application filed under Section 151 of the Code of Civil Procedure. If the petitioner wants to have the decree set aside on the ground of fraud, it is well open to him to file properly constituted suit with proper pleadings as required under Order VI Rule 4 of the Code of Civil Procedure and seek declaration that the decree is nullity or that the decree is vitiated because of fraud. An application to that effect, in my considered opinion, cannot be maintained since the allegations on fraud



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requires evidence which could be let in only in properly constituted suit.

The learned Principal District Judge had rightly rejected the application without numbering on the ground that it is not maintainable, moreso, when the Judgment and decree have been confirmed by this Court. Hence, I see no merits in this revision. Therefore, the Civil Revision Petition is dismissed. However, liberty is reserved to the petitioner to file a suit, if he is so advised. No costs.

18.11.2021

vum

Index: Yes/No

Speaking order / Non speaking order

To:

The Principal District Judge, Namakkal.



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R.SUBRAMANIAN, J.

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