



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.07.2022

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Review Application (Writ) No.73 of 2022

S.Poongavanam Ammal

Petitioner

vs.

1.N.Mani

2.The Superintendent of Police,
Kallakurichi District,
Kallakurichi.

3.The Inspector of Police,
Kallakurichi Police Station,
Kallakurichi District.
Vadapalai Village & Post – 604 204.
Melmalaiyanur Taluk,
Villupuram District.

Respondents

D.Subramania Pillai (Died)

PRAYER : Petition filed under Order XLVII, Rule 1 r/w Section 114 C.P.C., to review its earlier order dated 18.03.2021 passed in W.P.No.5796 of 2021.

For Petitioner : Mr.Babu Varadharajan

For Respondent : Mr.Sathyachandran for R1

Mr.S.Balaji
Government Advocate for R2 & R3



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ORDER

This petition has been filed to review the order passed by this Court in W.P.No.5796 of 2021, dated 18.03.2021.

2.When the matter came up for hearing on 25.04.2022, this Court passed the following order:

The learned counsel for the petitioner submitted that when the judgment was passed in the Appeal in AS No.2 of 2010, the petitioner was not heard and hence applications were filed in IA Nos.30 and 31 of 2022 to condone the delay and to rehear the Appeal on merits. It was therefore submitted that the present Review Petition has been filed.

2. The learned counsel for the petitioner/third respondent shall serve the papers on Mr.Sathya Chandran, who was appearing for the first respondent/petitioner in the Writ Petition. The learned counsel shall also serve the papers on the Government Advocate, Criminal side appearing on behalf of the second and third respondents. Post this Review Petition for hearing on 10.06.2022.

3.When the matter was once again taken up for hearing on 01.07.2022, this Court passed the following order:



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Mr.S.Balaji, learned Government Advocate takes notice on behalf of the 2nd and 3rd respondents.

2.The learned counsel for the petitioner submitted that the papers have been served on Mr.Sathyachandran, who was appearing for the 3rd respondent/writ petitioner.

3.Registry is directed to print the name of Mr.Sathyachandran, learned counsel for the 3rd respondent/writ petitioner and Mr.S.Balaji, learned Government Advocate (Criminal Side) for the 2nd and 3rd respondents.

4.Post this case for hearing on 08.07.2022.

4.This Court passed the order in the writ petition mainly on the ground that the Judgment and Decree passed in A.S.No.2 of 2010 has become final and it is binding on the petitioner herein. However, it is brought to the notice of this Court that the petitioner has already filed I.A.Nos.30 & 31 of 2022 seeking for condoning the delay in filing the petition to rehear the appeal on merits and for staying the Judgment and Decree passed in the appeal on 16.12.2019. Notice has already been ordered in these two petitions and these petitions are posted for hearing on 18.07.2022.



5.The learned Government Advocate (Criminal Side) on instructions submitted that the property in question is a cultivating land and on enquiry by the Inspector of Police, it was informed that it is the petitioner herein who is doing the cultivation.

6.In the considered view of this Court, this Court does not want to get into the issue of who is in possession of the property and who is cultivating the same, at this stage. This is in view of the fact that applications filed by the petitioners seeking for rehearing the appeal on merits is now pending before the Appellate Court and the Appellate Court is yet to pass any orders in these applications. At that stage, it will not be appropriate for this Court to issue an order for police protection. That apart, there is also a dispute as to who is actually cultivating the lands. The police cannot decide on this issue. It will therefore be left open to the concerned Court to proceed further with the hearing of all the petitions filed by the petitioner herein and take a decision on the same.

7.This Court does not want the police to get into this issue at this point of time. Depending on the orders passed by the Civil Court, it will be left open to the parties to workout their remedies accordingly.



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8. In view of the above, the order passed in W.P.No.5796 of 2021, dated 18.03.2021, is hereby recalled and this review petition stands allowed.

08.07.2022

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
ssr

To

1. The Superintendent of Police,
Kallakurichi District,
Kallakurichi.
2. The Inspector of Police,
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Kallakurichi District.
Vadapalai Village & Post – 604 204.
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N. ANAND VENKATESH, J.

ssr

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