



Rev.Aplc.Nos.215 & 216 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.09.2022

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

Rev.Aplc.Nos.215 & 216 of 2022

Rev.Aplc.No.215 of 2022:

Lakshmi Ammal

...Petitioner

Vs

1.Nalina Ammal

2.Kalyan Kumar

3.The Inspector of Police,
Vikravandi PS
Vikravandi.

... Respondents

Prayer: Review Application is filed under Section 114 r/w Order 47

Rule 1 of the Code of Civil Procedure to review the order dated

24.02.2022 passed in C.R.P.(PD).No.1931 of 2021.



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For Petitioner : Mr.Prakash Goklaney

For Respondents : Mr.N.Suresh
1 & 2

For Respondent 3: Mr.P.Vijaya Devi
Government Advocate.

Rev.Aplc.No.216 of 2022:

Senthil Kumar Vs ...Petitioner

1.Nalina Ammal

2.Kalyan Kumar

3.The Thasildar
Vikravandi

4.The District Collector,
Villupuram District,
Villupuram.

... Respondents

Prayer: Review Application is filed under Section 114 r/w Order 47

Rule 1 of the Code of Civil Procedure to review the order dated
24.02.2022 passed in C.R.P.(PD).No.1935 of 2021.

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For Petitioner : Mr.Prakash Goklaney

For Respondents : Mr.N.Suresh
1 & 2

For Respondents : Mr.P.Vijaya Devi
3 & 4 Government Advocate.

COMMON ORDER

The above review petitions are filed seeking to review the orders passed in C.R.P.(PD).Nos.1931 & 1935 of 2021. The facts in both the petitions overlap and therefore a common order is being pronounced in the review petitions.

2. (i). Rev.Aplc.No.215 of 2022 is filed seeking review of the order dated 24.02.2022 in C.R.P.(PD).No.1931 of 2021. This revision is filed by the Judgement debtor challenging the order passed in E.A.No.20 of 2020 in O.S.No.230 of 1991 on the file of the District



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Munsif – cum – Judicial Magistrate, Vikravandi, seeking Police Aid to implement the decree for permanent injunction.

(ii) Rev.Aplc.No.216 is filed challenging the order dated 24.02.2022 passed in C.R.P.(PD).No.1935 of 2021. This revision was filed to strike of the plaint in O.S.No.310 of 2021 on the file of the I Additional Sub Court, Villupuram. The facts in brief are as follows.

3. It appears that the respondents 1 and 2 herein had filed a suit in O.S.No.230 of 1991 on the file of the District Munsif, Villupuram, seeking declaration of their title to the suit property and for an injunction restraining the defendants from interfering with their peaceful possession and enjoyment of the suit schedule property. This suit came to be decreed by a Judgement and Decree dated 30.08.1993, in and by which the right and title of the respondents 1 and 2 herein had been declared and defendants were restrained by means of injunction from interfering with the peaceful possession and enjoyment



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of the property. However, the suit was dismissed with reference to the 2nd item of the property. The defendants in the said suit were one Venkatesan, Annamalai, Lakshmi, Ashok Raj and Sokkalingam.

4. The said Judgement and Decree was taken up on appeal by respondents 1 and 2 herein in A.S.No.307 of 1994 on the file of the District Court, Villupuram. By Judgement and Decree dated 17.04.1995, the appeal was allowed and the plaintiffs' / respondents' 1 and 2 herein claim to the 2nd item of the suit property was also decreed. This Judgement and Decree was challenged by 2nd and 3rd defendant before this Court in S.A.No.1107 of 1995. By Judgement and Decree dated 23.04.2007, this Court had dismissed the Second Appeal.

5. Meanwhile, the execution proceedings had been initiated in E.A.No.717 of 2007 in the suit O.S.No.230 of 1991 on the file of the Principal District Munsif, Villupuram seeking Police Aid to implement



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the order passed in O.S.No.230 of 1991, confirmed by this Court in S.A.No.1107 of 1995.

6. Since the said EA was dismissed, respondents 1 and 2 herein had filed C.R.P.(NPD).No.1 of 2008 on the file of this Court. By order dated 09.01.2008, the said revision was allowed and the order passed in E.A.No.717 of 2007 was set aside and the application allowed. One of the arguments that was advanced in this revision by the respondents, namely, Lakshmi Ammal and the Inspector of Police was that in so far as Item no.1 and 5 cents in Item no.2, are concerned the petitioners can seek relief of Police Aid but they cannot seek the said relief with reference to the undivided share in well, motor pump set, switch board etc,. This Court had accepted the said contention and order was passed that the petitioners who are respondents 1 and 2 herein are not granted any order with reference to the undivided share in the well, motor pump set, switch board etc, till such time the same is declared in

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partition.

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7. The 3rd defendant had filed a review in Review Application No.32 of 2008 seeking review of the order dated 09.01.2008 in C.R.P.(NPD).No.1 of 2008. The said application was dismissed. Thereafter, the 3rd defendant had filed an SLP, challenging the Judgement and Decree in S.A.No.1107 of 1995, before the Hon'ble Supreme Court. By order dated 23.03.2015, the said SLP was dismissed. Therefore, the Judgement and Decree in S.A.No.1107 of 1995 and consequently the decree in the suit O.S.No.230 of 1991 attained finality.

8. After the dismissal of the said SLP, it appears that the 3rd defendant Lakshmi Ammal had filed a suit in O.S.No.159 of 2015 seeking a partition of her 3/4th share over the petition mentioned property. Thereafter, on 16.11.2020, the said Lakshmi Ammal has



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executed a settlement deed in favour of her son Senthil Kumar and he has instituted a suit in O.S.No.310 of 2022 on the file of the I Additional Civil Judge, Villupuram. Against the said suit, the 1st and 2nd respondents had filed C.R.P.(PD).No.1935 of 2021 to strike of the plaint as it is a sheer abuse of process of Court, re-litigation and fraud played on Court. The suit property was the very same property, which is the subject matter of the earlier proceedings in O.S.No.230 of 1991. The right title and interest of the respondents 1 and 2 had been declared to the suit property right upto the Hon'ble Supreme Court. While so, the said Senthil Kumar on the strength of the settlement deed executed by his mother, the 3rd defendant has filed the suit.

9. C.R.P.(PD).No.1935 of 2021 was allowed by orders dated 24.02.2022 and it is this order that is the subject matter of Rev.Aplc.No.216 of 2022.



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10. Since the Executing Court had granted Police Aid in E.A.No.20 of 2020, the 3rd defendant had filed C.R.P.(PD).No.1931 of 2021, which was dismissed by this Court. Against the said order, the review petitioner have filed Review Application in Rev.Aplc.No. 215 of 2022.

11. In both the review applications, the only ground of challenge is that it has not been brought to the notice of the Court that the respondents 1 and 2 were only entitled to a 1/4th share in the Item no.2 of the suit properties. Apart from this, no other ground has been raised.

12. This Court in Rev.Aplc.No.32 of 2008 had observed as follows:

“Admittedly as per the decree, the review petitioner/first defendant in O.S.No.230 of 1991 is not



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entitled to any land in the plaint schedule properties 1 and 2 to O.S.N0.230 of 1991. She is entitled to 1/4th share only in the well, motor pump set and switches, in plaint schedule II alone. Excluding the undivided share in the well, motor pump set , switches in plaint Item No.2 schedule property alone, police aid was given.

13. This defense which has now been taken in the review has not been taken at any point of time. Be that as it may, a mere perusal of the 2nd Item of the suit schedule property would clearly show that in addition to 5 cents of land in S.No.187 / 4, the plaintiffs have also sought to have their right declared with reference to 1/4th share in the well, pump sets, switch board etc.,

14. The petitioners have not made out any case that the order suffers from an error apparent on the face of the record or that they had



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come across new document, which was not within their knowledge earlier. On the contrary, the petitioners are seeking to develop a new case, not argued at any point of time. Therefore, no ground has been made out to review both the orders.

15. In the result, the review applications are dismissed. No costs.

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Index : Yes/No

Speaking order/non-speaking order



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P.T.ASHA, J.,

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