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Rev.Aplc.(MD) No.95/2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 08.08.2022

CORAM

THE HONOURABLE MR. JUSTICE R.SUBRAMANIAN

AND

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

Rev.Aplc (MD) No.95/2022 in CMP (MD).No.8664/2019 IN AS.SR(MD)
No.66426/2019

[Through Video Conferencing]

1.Sarojini

2.Vijayasingh

..

Petitioners

Versus

1.R.Raguram

2.R.Kandaleela

..

Respondents

Prayer:- Review Application filed under Order XLVII Rules 1 and 2 read with Section 114 C.P.C., in CMP(MD) No.8664/2019 in AS (MD) SR.No. 66426/2019 dated 28.04.2022.

For Petitioners : Mr.Sricharan Rangarajan for
Ms.T.Sathya Selvi



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ORDER

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[Order of the Court was made by R.SUBRAMANIAN, J.,]

- (1)The petitioners seek review of our order dated 28.04.2022 dismissing an application for condonation of delay of 454 days in filing the appeal as against the decree in OS.No.72/2015 dated 22.03.2018.
- (2)The said suit was launched by the respondents herein seeking recovery of money to the tune of Rs.53 lakhs and the money paid by them under a Sale Deed executed by the 1st petitioner herein claiming to be the owner of the property under a Settlement Deed executed by the 1st petitioner during the year 2012. According to the respondents herein, the petitioners have colluded and created the Settlement Deed of the year 2012 suppressing the Sale Deed that had been executed by the 2nd petitioner in favour of the 1st petitioner on 06.02.1986 in favour of one Balaiyya.
- (3)Upon realising that they have been cheated, respondents 1 and 2 launched the above suit for recovery. In the written statement filed in the suit, the earlier sale was specifically admitted by the defendants therein who are the petitioners herein. It was claimed that certain persons advised that they still remain to be the owners of the property since there



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was no encumbrance reflected in the Encumbrance Certificate and the name of the 2nd petitioner herein continued to be reflected as the owner in the joint patta that was issued to the property. The said suit was decreed by the Trial Court on 22.03.2018.

(4)It should be mentioned here that the 2nd petitioner herein is a retired teacher and is not an unlettered person. When the petitioners sought for condonation of delay of 454 days in filing the appeal, we had dismissed the application on the ground that the claim of the petitioners that they were incapacitated or immobilised due to old age which is also apparently false since it was shown that they had executed certain registered instruments even after filing of the petition at the height of Covid 19 pandemic during March 2020 in respect of the property which was under attachment by orders of the Court in the suit. This is another attempt by the petitioners to delay the execution of any decree that may be passed against them.

(5)Mr.Sricharan Rangarajan, learned counsel for the petitioners would submit that the petitioners were carried away by certain assurances/ill-advise, at their old age, given by certain real estate brokers and it was the



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ill-advise that led to the second sale. Learned counsel would further submit that the petitioners had in fact admitted their mistake in the written statement. They in fact attempted to pass on the liability to somebody else claiming that the real estate persons who had advised them are also responsible and they did not in fact receive the entire consideration under the Sale Deed.

(6) We do not think we can accept the contentions of the learned counsel for the petitioners since any evidence contrary to the contents of a registered instrument is barred under Section 92 of the Evidence Act. Apart from the above, no other contention is raised by the learned counsel for the petitioners. We do not see any error apparent on the face of the record.

(7) In the result, the Review Application fails and it is accordingly, **dismissed.**

[R.S.M., J.] [N.S.K., J.]

08.08.2022

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Internet: Yes



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