



Rev. Appl. No. 50 of 2023
against C.R.P.No. 4813 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 15.12.2023

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THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

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and

C.M.P.No. 4100 of 2023

against

C.R.P. No. 4813 of 2017

1. Dheivanilla
2. Vasanthi
3. S.Natarajan
4. A.Senthilkumar
5. Dharani
6. Kalaiyarasi
7. Thanikachalam

... Applicants

Versus

1. Mayilvahanan

1. Ramachandran
2. Ravi
3. Indiragandhi
4. Perumal Asari
5. Saroja
6. Rajendiran
7. Venmal



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8. Parvathiammal

9. Rajee

10. Ganesan

11. Sivakumar

12. Ganesan

13. The Special Tahsildar,
Land Acquisition,
Attur.

14. C.Thangaraj

15. C.A.Thangaraj

... Respondents

Prayer:- Review Application has been filed under Order 47 Rule 1 r/w 114 of Civil Procedure Code, praying to review the order of this Hon'ble Court dated 31.10.2022 passed in C.R.P.No. 4813 of 2017.

For Petitioner

: Mr.N.Subramaniyan

ORDER

This Review Application has been filed by the Review Applicant praying to review the order passed by this court as there is an error while passing the impugned order, which is beyond the scope of Civil Revision Petition in respect of an observation made by this court about the decree passed in O.S.No. 328 of 1981.



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2. Heard both sides.

3. The learned counsel for Review Applicants would submit that the plaintiff Arumugam in the suit in O.S.No. 328 of 1981 had made over the decree, based on that, they wanted to implead themselves as necessary parties in the L.A.O.P. proceedings. On hearing both sides, while disposing the matter, this Court made an observation with regard to the decree in O.S.No. 328 of 1981 as it is an invalid decree. Aggrieved over the same, this Review Application was filed by the Review Applicants stating that scope of the application is only to implead parties based upon the made over decree, but this court made an observation that the said decree itself is invalid and non-est in law, which is beyond the scope of Civil Revision Petition. Hence, the Review Applicants prayed to review the findings.

4. On perusal of entire order, this Court is not inclined to allow the Review Application as there is no merit in the application for the reason that the alleged made over claimed by the Revision Petitioners as such is not



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acceptable one and non-est in law. But, the learned counsel for Review Applicants would submit that before the trial court, already there is an application filed by the original legal heirs of Arumugam to set aside the exparte decree. In such circumstances, if any observation is made in respect of exparte decree in the Civil Revision Petition, which would affect their right to take defence in the said interlocutory application. Therefore, considering the said objection, this Court is inclined to remove the following observations made in paras 6 as well as in para 7 of the order with regard to the decree passed in O.S.No. 328 of 1981 is beyond the scope of Civil Revision Petition, which is extracted hereunder :-

“6.The conduct of trial judge is unjustifiable one and the same is amounting to ignorance of law. Therefore, this court reserves its right to call for explanation from the concerned officer on the administrative side.

7.....Hence, the decree is totally invalid and nonest in law. However, based on an invalid decree, the legal heirs of Arumugam made over the decree in favour of Revision Petitioner and Respondents 21 and 22, as such is not



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maintainable in law. At the most, the legal heirs of Arumugam has to approach the trial court to prove the Will as if they are having right over the property. Therefore, the reasons assigned by the trial judge in I.A.No.9 of 2016 is set aside, besides the decree in O.S.No.328 of 1981 is also nonest in the eye of law.”

However, the Revision Petitioner failed to establish that he has obtained a valid made over decree and the trial judge has also rightly dismissed the application, which needs no interference. If at all, any application is pending before the trial court to set aside the exparte decree passed in O.S.No. 328 of 1981 subject to proof of Will, both parties are given liberty to raise their objections as per the manner known to law. Accordingly, this Review Application is dismissed as no merit confirming the findings of trial judge. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

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T.V.THAMILSELVI, J.

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