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Review Application No.161 of 2021

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

Review Application No.161 of 2021

and

C.M.P.No.22681 of 2022

S.Ramaswami

...Petitioner

Vs.

H.G.V.Subramaniam

...Respondent

Prayer: Review Petition filed under Order 47 Rule 1 r/w. 114 of C.P.C., against the order passed in S.A.No.574 of 2020 dated 02.11.2020.

For Petitioner : Mr.Susanna Prabhu

ORDER

The applicant seeks review of my judgment dated 02.11.2020 made in S.A.No.574 of 2020. The said Second Appeal was dismissed at the admission stage mainly on the ground that the defendant, who had asserted his title over 'B' Schedule property cannot plead adverse possession.



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2.The learned counsel appearing for the review applicant would draw my attention to certain portions of the written statement to contend that such a plea was not made and the title of the plaintiff was admitted. Though in a review, a re-consideration of the judgment of the Appellate Court is not permissible, in order to satisfy myself regarding the plea taken by the learned counsel, I had gone through the relevant portions pointed out by the learned counsel. In Para 6 & 9 of the original written statement, in which, the defendant has pleaded as follows:-

“6.The Defendant states that, in any event, what the Defendant would be selling will be his own property, which was settled on the Defendant by his father by the Settlement Deeds dated 01.09.1982 and 21.02.1992, and over which the plaintiff cannot have any claim whatsoever.

9.The Defendant states that, since the Defendant has been in absolute ownership possession and enjoyment of the said extent of land legally, the plaintiff has no right to claim the whole, or any part, of this extent of land.”

3.Again in the additional written statement also, the defendant has pleaded that he is in possession of the property that has been settled on him



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as an absolute owner therefore the submission of the learned counsel for the review applicant that the defendant has conceded the title of the plaintiff to the 'B' Schedule property is factually incorrect. Hence, the Review Petition is dismissed as devoid of merits. Consequently, connected miscellaneous petition is closed.

02.02.2023

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Internet: Yes/No

Index: Yes/No

Speaking/Non-speaking order



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R.SUBRAMANIAN, J.

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