



Review Application No. 145 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.08.2023

CORAM

THE HON'BLE MR. JUSTICE S. VAIDYANATHAN

AND

THE HON'BLE MRS. JUSTICE R. KALAIMATHI

REVIEW APPLICATION No. 145 of 2023

D. Ravi

..Petitioner

Vs.

S. Padmavathi (Deceased)

1. S. Radha
2. Mrs. K. Vijaya
3. Mr.P. Srinivasan
4. S. Pushpalatha
5. Sripriya

..Respondents

Prayer: Review Petition as against the judgment dated 25.04.2023

passed in A.S. No. 151 of 2017.

For Petitioner :: Mr.P. Chandrasekar

For Respondents :: Mr.P. Paul Selvam



WEB COPY



Review Application No. 145 of 2023

O R D E R

(Made by S. Vaidyanathan,J.)

The above review petition has been filed as against the judgment dated 25.04.2023 passed in A.S. No. 151 of 2017.

2. A detailed judgment had been passed by this Court after considering the factual aspects and the submissions made on either side. By way of review petition, the petitioner is trying to introduce new documents, which is not permissible. He should have invoked Order XLI Rule 27 of Civil Procedure Code for receiving additional documents and after contest, depending upon the objections that may be taken by the other side, this Court may render a finding. That apart, in paragraph No.9 of the judgment under challenge, this Court had also considered about receiving unregistered partition deed dated 14.04.1967.

3. Even based on merits, we find that there is no need to review the judgment passed in A.S. No. 151 of 2017, more so, in the light of the following judgments:



(i) The Special Officer, Kallal Co-operative Primary Agricultural and Rural Development Bank Ltd., Karaikudi, Sivagangai District Vs. R.M.Rajarathinam and Others [Review Application (MD). No.82 of 2013] decided on 04.02.2015, a Division Bench of this Court held as follows:

“10... It is well settled that the scope of review is very limited. The review applicant cannot re-argue and he is not entitled for re-hearing on merits.”

(ii) Dhanalakshmi Vs. M.Shajahan and others reported in **AIR 2004 Madras 512**, wherein another Division Bench of this Court opined that the power of review is not an appeal in disguise. The relevant paragraphs of the said order are extracted below:

"11. From the above judgments, it is seen that the law is well settled inasmuch as the power of review is available only when there is an error apparent on the face of the record and not on erroneous decision. If the parties aggrieved by the judgment on the ground that it is erroneous, remedy is only questioning the said order in appeal. The power of review under Order 47 Rule 1 C.P.C. may be opened inter alia only if there is a mistake or an error apparent on the face of the record. The said power cannot be exercised as is not permissible for an erroneous decision to be "reheard and corrected". A review application also cannot be allowed to be "an appeal in disguise". Similarly, the error apparent on the face of the record must be such an error, which must



strikes one on mere looking at record and would not require any long drawn process of reasoning on points, where there may conceivably be two opinions.”

(iii) ***R.Mohala Vs. M.Siva and others*** in ***Review Petition No.61 of 2018 and WMP.No.10818 and 10819 of 2018*** decided on ***25.04.2018***, wherein one of us (SVNJ) elaborately discussed the scope of review and in Paragraph Nos.7 and 8, it was held as follows:

“7.The basic principle to entertain the review under Order 47 Rule 1 C.P.C. is to correct the errors but not to substitute a view. The judgment under review cannot be reversed (or) altered taking away the rights declared and conferred by the Court under the said judgment; once a judgment is rendered, the Court becomes functus officio and it cannot set aside its judgment or the decree; no inherent powers of review were conferred on the Court; the review Court cannot look into the trial Court judgment; it can look into its own judgment for limited purpose to correct any error or mistake in the judgment pointed out by the review petitioner without altering or substituting its view in the judgment under review; the review court cannot entertain the arguments touching the merits and demerits of the case and cannot take a different view disturbing the finality of the judgment; the review cannot be treated as appeal in disguise, as the object behind review is ultimately to see that there should not be miscarriage of justice and shall do justice for the sake of justice only and review on the ground that the judgment is erroneous cannot be sustained.

8. It is settled law that even an erroneous decision cannot be a ground for the Court to undertake review, as the



WEB COPY



Review Application No. 145 of 2023

first and foremost requirement of entertaining a review petition is that the order under review of which is sought, suffers from any error apparent on the face of the order and in absence of any such error, finality attached to the judgment/order cannot be disturbed.”

(iv) ***Meera Bhanja Vs. Nirmala Kumari Choudhury*** reported in (1995) 1 SCC 170, the Hon'ble Supreme Court while considering the scope of the power of review of the High Court under Order 47, Rule 1, C.P.C., held as follows:

"The review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of Order 47, Rule 1 C.P.C. The review petition of error apparent on the face of the record and not on any other ground. An error apparent on the face of the record must be such an error which must strike one on mere looking at the record and would not require any longdrawn process of reasoning on points where there may conceivably be two opinions. The limitation of powers on court under Order 47, Rule 1, C.P.C. is similar to jurisdiction available to the High Court while seeking review of the orders under Article 226."

(v) ***Parsion Devi Vs. Sumitri Devi***, reported in 1997 (8) SCC 715, the Hon'ble Apex Court held as follows:

"Under Order 47, Rule 1, CPC a judgment may be open to review inter alia if there is a mistake or an error apparent on the face of the record. An error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of the record justifying the Court to exercise its power



WEB COPY



Review Application No. 145 of 2023

S. VAIDYANATHAN,J.

AND

R. KALAIMATHI,J.

nv

of review under Order 47, Rule 1, CPC. In exercise of the jurisdiction under Order 47, Rule 1, CPC, it is not permissible for an erroneous decision to be "reheard and corrected". A review petition, it must be remembered has a limited purpose and cannot be allowed to be "an appeal in disguise."

4. The learned counsel appearing for the review petitioner was referring to the document, which was not marked. Therefore, beyond the scope of review, he is not permitted to traverse. Hence, we are of the considered opinion that this review application is liable to be dismissed as not maintainable in law. Accordingly, the review application stands dismissed. No costs.

nv

(S.V.N.J.) (R.K.M.J.)

10.08.2023

Review Application No.145 of 2023