



CMP Nos.19987 and 19998 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 18.07.2023

PRONOUNCED ON : 31.07.2023

Coram:

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

CMP Nos.19987 and 19998 of 2022
and Rev.Appl.SR.Nos.123161 & 123181 of 2022

CMP Nos.19987 of 2022 and Rev.Appl.SR.Nos.123181 of 2022

P.C.Ramasamy

.... Petitioner/Review Applicant

Vs.

1. C.Selvam

2. S.Devimalar

3. M.P.Nagarajan

4. K.P.Karunanidi

5. S.Palanisamy

6. K.C.Palanisamy

7. K.P.Sakthivel

8. C.Prakash

9. K.Rajkumar

10. K.Mynavathi

11. C.Poonimadevi

12. D.Chandrasekaran

13. K.P.Krishnasamy (died)

14. K.Sarathambal

15. P.Savitha

.... Respondents 1 & 2 / Appellants

.... Respondents 3 to 15/Respondents 2 to 14

Prayer in CMP No.19987 of 2022: This Civil Miscellaneous Petition is filed under Section 5 of the Limitation Act, to condone the delay of 22 days in filing the above Review Application before this Court against the Judgment and decree dated 05.04.2022 made in S.A. No.647 of 2014 on the file of this Court.



CMP Nos.19987 and 19998 of 2022

Prayer in Rev.Appl.SR No.123181: This Review Application is filed under Order 47 Rule 1 r/w Section 114 of Code of Civil Procedure, to review the Judgment and decree dated 05.04.2022 made in S.A. No.647 of 2014 on the file of this Court.

For Petitioner / Rev. Applicant : Mr.G.R.Deepak

For Respondents

R1 to R9 : Not ready in notice
R10 to R12, R14 & R15 : Mr.A.Arun Anbumani
R13 : Died

CMP Nos.19998 of 2022 and Rev.Appl.SR.Nos.123161 of 2022

P.C.Ramasamy Petitioner/Review Applicant

Vs.

1. M.P.Nagarajan
2 S.Palanisamy
3. K.Mynavathi
4. C.Poonimadevi
5. D.Chandrasekaran
6. K.P.Krishnasamy (died) Respondents 1 to 6 / Appellants 1 to 6
7. K.Sarathambal
8. P.Savitha
9. K.P.Karunanidi
10. K.C.Palanisamy
11. K.P.Sakthivel
12. C.Prakash
13. K.Rajkumar
14. C.Selvam
15. S.Devimalar Respondents 1 & 2 / Appellants

Prayer in CMP No.19998 of 2022: This Civil Miscellaneous Petition is filed under Section 5 of the Limitation Act, to condone the delay of 22 days in filing the above Review Application before this Court against the Judgment and decree dated 05.04.2022 made in S.A. No.912 of 2014 on the file of this Court.



CMP Nos.19987 and 19998 of 2022

Prayer in Rev.Appl.SR No.123161: This Review Application is filed under Order 47 Rule 1 r/w Section 114 of Code of Civil Procedure, to review the Judgment and decree dated 05.04.2022 made in S.A. No.912 of 2014 on the file of this Court.

For Petitioner / Rev. Applicant : Mr.G.R.Deepak

For Respondents

R1, R2, R9 to R12, R14 & R15

: Not ready in notice

R3, R4, R5, R7 & R8

: Mr.A.Arun Anbumani

R6 & R13

: Died

COMMON ORDER

These two Civil Miscellaneous Petitions are filed by P.C.Ramasamy, the plaintiff in OS No.192 of 2007 on the file of learned Subordinate Judge, Erode (OS No.219 of 2007 on the file of Vacation Civil Judge of Erode), to condone the delay of 22 days in filing the review applications, against the common judgment dated 05.04.2022 made in S.A.Nos.647 & 912 of 2014.

2. The learned counsel for the revision petitioner produced a copy of Ex.A1/Power of Attorney and made submissions as to the scope of the Power of Attorney and also stated that there is no recital in the said Power of Attorney to convey the Sale Deed in favour of the person other than D2 and also relied upon the judgment of the Hon'ble Supreme Court reported in **(2022) 7 SCC 90** in the case of ***Umadevi Nambiar Vs. Thamarasseri Roman Catholic Diocese*** and



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submitted that whether in the absence of any authority to sell, the general Power of Attorney is valid or not? He further relied upon the judgment of the Hon'ble Supreme Court reported in **2021(3) MWN (Civil) 825** in the case of **Kewal Krishan Vs. Rajesh Kumar and Others** that in the absence of any passing of consideration, the Sale Deed is null and void and raised the point that under the impugned Sale Deed, there is non passing of consideration. On the consideration aspect, the evidence that was let in by way of income was not considered.

3. In reply, the learned counsel for the respondents have made submissions that the petitioner herein had the knowledge of orders passed by this Court as early as on 19.05.2022, when they filed SLP before the Hon'ble Supreme Court and after issuing notice to the respondents, they entered appearance through the learned Senior Advocate and after hearing both the parties, all the points raised in the grounds of appeal were considered and an order of dismissal has been passed by the Hon'ble Supreme Court on 20.10.2022 and hence, he would contend that the date of knowledge of the petitioner is wrong as stated in the affidavit since on the date of filing of SLP before the Hon'ble Supreme Court namely on 19.05.2022, he had the knowledge and hence, within 30 days of his knowledge, he ought to have filed.

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4. Learned counsel for the respondents further submitted that the points that were now raised in the review applications are points raised in SLP in ground Nos.5(I), 5(II), 5(III) and 5(IV) and it was raised in Questions of Law in 2(B). The SLP was dismissed and the petitioner cannot reagitate the matter on those points.

5. In view of the point raised by the counsel for the respondents with regard to the date of knowledge, I called for a report from the Registry. The Registry has submitted a report stating that as per the report enclosed, the then counsel for the revision applicant appears to have filed two copy applications on 06.04.2022 in SR Nos.23300 and 23299. Both are made ready on 16.09.2022 and taken on 19.09.2022.

6. The learned counsel for the respondents relied upon the judgment of our Hon'ble Supreme Court in ***Parsion Devi and Others Vs. Sumitri Devi and Others***, reported in (1997) 8 SCC 715 on the point of the scope of the review applications regarding mistake or error apparent on the face of the record and also relied upon the decision in ***Thakur Bhagat Singh Vs. State of M.P.***

And others, reported in 2005(12) SCC 450 wherein the Hon'ble Supreme Court

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has held that in a review petition which is filed out of time, the date of knowledge has to be reckoned for the purpose of limitation and further relied upon the judgment of the Hon'ble Supreme Court in ***Pancham Lal Pandey Vs. Neeraj Kumar Mishra and Others***, reported in **2023 SCC OnLine SC 143**, wherein at paragraph No.15, it is held as follows:

“15. The provision of review is not to scrutinize the correctness of the decision rendered rather to correct the error, if any, which is visible on the face of the order/record without going into as to whether there is a possibility of another opinion different from the one expressed.”

7. After perusing the orders passed by the Hon'ble Supreme Court in SLP Nos.18148 and 18419 of 2022, after notice, the respondents herein also appeared and Hon'ble Supreme Court has rejected the SLPs as they find no reason to interfere with the impugned order. That order was passed on 20.10.2022. The above said SLPs were filed before the Hon'ble Supreme Court on 19.05.2022. As could be seen from the typed set of papers, the above SLPs were filed before the Hon'ble Supreme Court as early as on 19.05.2022 and hence, this Court finds that the knowledge of the judgment and contents of the judgment were known to the parties even on 19.05.2022. Besides the reason



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offered in the affidavit for the delay does not constitute the 'sufficient cause' for condoning the said delay.

8. On the date of filing of the SLPs before the Hon'ble Supreme Court on 19.05.2022 itself, the petitioner had the knowledge about the findings rendered by this Court in the above said Second Appeals, wherein the plaintiff was non suited and hence, the reason assigned by the petitioner to condone the delay does not satisfy to the effect that he was prevented from filing the revision by sufficient cause.

9. The learned counsel for the petitioner and the respondents herein also made submissions on the merits of the review applications and I also heard them in length.

10. The learned counsel for the petitioner with regard to the power of attorney putforth various contentions with regard to power of attorney.

11. Admittedly, the points now urged by the learned counsel for the petitioner in the review applications, are not in evidence and not in pleadings and various contentions raised by the petitioner herein are already considered in



the judgment at paragraph Nos.25, 26, 28, 29, with regard to Ex.A1 Power of Attorney, I find that the very same points have been raised in the SLPs at Ground Nos.5(I), 5(II), 5(III) and 5(IV) and also it is raised in the Questions of Law in 2(B). As stated supra, the SLPs were dismissed on 20.10.2022.

12. The next point of argument that is now advanced in the review applications is that regarding the plea of non passing of consideration and whether the consideration has been passed between the 1st and 3rd defendants and consequently to the 4th and 5th defendants have already been dealt with by me in the impugned common judgment at Paragraph Nos.44 to 53 and a specific finding has been rendered by me at paragraph Nos.53(i) and 53(j) of the judgment.

13. In the impugned common judgment, which is now sought to be reviewed by the plaintiff, I have considered all the points raised by the petitioner herein. Regarding non examination of 3rd defendant, whether fatal to the case of the defendants and the various clauses in the power of attorney deed Ex.A1, I have held at paragraph No.30 that the power executed by PW1 in favour of DW1 does not contain any such restriction upon DW1-General Power



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of Attorney holder and in the absence of any such recital, snap answer cannot be a point of acceptance, more so, when no such plea has been raised in the pleadings or whispered by PW1 in the witness box.

14. Further, at paragraph No.31, I have also held that in the absence of any pleadings viz., it is not the case of the 1st respondent/plaintiff that the agent had exceeded its authority and with regard to the payment of sale consideration, whether paid or not paid, I have considered the said point in detail at paragraph Nos.34, 35, 36, 37 and 38 and also whether the suit property being sold for a song has been considered between paragraph Nos.44(a) and 47.

15. Regarding Advocate Commissioner's report and possession, I have dealt with the same in detail at paragraph Nos.48 to 52 and with regard to the plea of income tax notice, it has been dealt with by me in detail in paragraph Nos.53(a) to 53(k) and thus, I find that all the above five points that have been agitated by the review petitioner who seeks to review the common judgment made in the Second Appeals, have been clearly dealt with by me elaborately based upon the oral and documentary evidence adduced therein. Therefore, I find that the petitioner herein wants to re-agitate the very same set of findings.

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16. In the decision reported in ***Pancham Lal Pandey's case*** [cited supra], our Hon'ble Supreme Court has held that the provision of review is not to scrutinize the correctness of the decision rendered rather to correct the error, if any, which is visible on the face of the order/record without going into as to whether there is a possibility of another opinion different from the one expressed.

17. With regard to the finding of the fact rendered, the SLPs filed against the impugned common Judgment in Second Appeals, have been dismissed. After going through the order, I find that the contentions raised by the petitioner herein is only a repetition of the very same points that were agitated in the Second Appeals and the calculation made for the number of delay mentioned in the petition, is incorrect and improper.

18. The petitioner wants to keep some litigation or other alive in respect of the suit property and by misusing the review applications, the petitioner has filed the above CMPs as a tool to sustain all his and other



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connected proxy litigations instituted at his instance, to claim as though the suit property still belongs to him and hence, I find that the petitioner has not made out any case for condoning the delay and also taking note of the scope of the review application, as stated supra and on the merits of the case, as discussed supra, I find that both the Civil Miscellaneous Petitions filed for condoning the delay as well as the Review Applications filed for reviewing the common Judgment made in S.A.Nos.647 and 912 of 2014, are devoid of merits.

19. Accordingly, the Civil Miscellaneous Petitions in CMP Nos.19987 & 19998 of 2022 are dismissed and the Review Applications in Rev.Appl.SR.Nos.123181 & 123161 of 2022 are dismissed at the SR stage itself. No Costs.

31.07.2023

Index : Yes/No
Speaking order / Non-speaking order
Neutral Citation: Yes/No.
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RMT.TEEKAA RAMAN,J

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Pre-delivery common order in
CMP Nos.19987 and 19998 of 2022
and Rev.Appl.SR.Nos.123161
& 123181 of 2022