



Rev.Aplc (MD) No. 44 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.06.2023

CORAM

THE HON'BLE MR. JUSTICE S. VAIDYANATHAN

AND

THE HON'BLE DR.JUSTICE G. JAYACHANDRAN

REVIEW APPLICATION (C)(MD) No. 44 of 2023

Anitha

..Review Petitioner

Vs.

G. Kannan

..Respondent

Prayer: Review Petition filed to review the judgment and decree dated 08.12.2021 passed in C.M.A.(MD) No. 273/2017.

For Review Petitioner :: Ms. Jagadeswari for
Mr.K. Baalasundharam

ORDER

(Order of the Court was made by **DR.JUSTICE G. JAYACHANDRAN**)

The respondent wife, who suffered a decree of divorce by order of



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this Court dated 08.12.2021, has preferred this review petition with a delay of 331 days. The delay was condoned and after numbering, the review petition is taken up and disposed of on merits as hereunder.

2. The specific ground raised in the review petition is that subsequent to the order passed by the Family Court, the spouses have united and living as husband and wife in their native place and the same was not brought to the notice of this Court when the Civil Miscellaneous Appeal came up for disposal.

3. The above said ground raised in the review petition is per se false and amounts to perjury. When the C.M.A was taken up for final hearing, after hearing the submissions made by the counsel on either side, this Court, to explore the possibility whether the parties were willing for a reunion, summoned them to appear before this Court. On their appearance, after interacting with them, this Court had made the following observations, which are self-explanatory:

"6. After hearing the submissions made by the learned counsel on either side, this Court, in order to



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ascertain as to whether really there is any possibility for reunion, requested the parties to appear before this Court in person. While we interacting with them, they made allegations and counter allegations against each other. For every documents filed in the proceedings, the other side has some explanation / reasons for execution of the same. But, the fact remains that in spite of several attempts made to compromise, the respondent is not inclined to withdraw her proceedings whatever she has initiated against the appellant, but she wants to live with the appellant. The appellant is ready to forego everything, but not willing to join the respondent."

While the fact being so, now a new case is sought to be projected in the review petition contrary to the facts, which has been observed by this Court after interacting with the parties.

4. Furthermore, in ***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***, one of us (SVNJ) elaborately discussed the scope of review and in Paragraph Nos.7 and 8, held as follows:



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“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 first and foremost requirement of entertaining a review petition is that the order under review of which is sought,



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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.”

5. Hence, the review petition fails and the same is dismissed. No costs.

nv

(S.V.N.J.) (Dr.G.J.J.)
26.06.2023

S. VAIDYANATHAN,J.



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AND

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nv

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