

+BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Civil Appellate Jurisdiction

Monday, the Thirteenth day of February Two Thousand and Twenty
Three

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CMP(MD). No.6619 of 2022

in

Rev.Aplc(MD)No.68 of 2022

Kaliaperumal, ... Review Petitioner/Petitioner

Vs

1 Balakrishnan

2 Karuppaiah ... Respondents/Respondents

Prayer :-

This Petition filed under Section 151 of C.P.C to take appropriate action against the respondent Balakrishnan for committing offence u/s.191 and 193 of IPC and thus render justice

Prayer in REV.APLC(MD). 68/ 2022 :

Review Application filed under section 114 r/w order 47 rule 1 and 2 of Civil Procedure Code to prefers this present Review Application in the judgment and decree dated 06.12.2021 in C.R.P. No. 234 of 2021 passed by this Honourable High Court for the following among other.

Prayer in CRP(MD). 234/ 2021 :

Pleased to call for and quash the entire proceeding in EP No.33 of 2016 dated 17.10.2019 in OS No.26 of 2010 and subsequent order dated 06.11.2019 passed thereon, on the file of Principal Subordinate Judge, Pudukottai.

ORDER:- This Petition coming on for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Thiru./Ms. K. Balasundaram, Advocate for the Petitioner and of Thiru./Ms. D.Parisuthanathan, Advocate for the respondents, this Court made the following order:

The above petition has been filed seeking orders to take appropriate action against the respondent Balakrishnan for committing offence under Sections 191 and 193 I.P.C.

2. The main contention of the petitioner is that in the affidavit filed in support of the petition filed under Section 5 of the Limitation Act and in the affidavit filed in injunction petition, he has stated that he was in Malaysia since the year 2009 to 2019.

3. As rightly contended by the learned Counsel for the respondent, the above claim of the respondent that he was in Malaysia from 2009 to 2019 is a matter to be gone into in the application filed under Section 5 of the Limitation Act to condone the delay in filing the petition for setting aside the ex parte decree. Moreover, the respondent, while filing Civil Revision Petition has also filed an interlocutory application and that since the Civil Revision Petition itself was disposed of, the injunction application was also closed.

4. In ***Santokh Singh Vs. Izhar Hussain and another*** reported in **1973(2) SCC 406**, the Hon'ble Apex Court has held that every incorrect or false statement does not make it incumbent on the court to order prosecution, that the court has to exercise judicial discretion in the light of all the relevant circumstances when it determines the question of expediency and that the court orders prosecution in the larger interest of the administration of justice and not to gratify feelings of personal revenge or vindictiveness or to serve the ends of a private party.

5. The petitioner has also produced the copy of the passport and wherein there are entries that the respondent has come to India sometimes between 2009 and 2019.

6. Considering the facts and circumstances of the case, even assuming that the respondent has given such an affidavit that he was in Malaysia from 2009 to 2019, the same cannot be considered as material aspect affecting the decision of this Court. Moreover, the same cannot be considered as deliberate and conscious .

7. As rightly contended by the learned Counsel for the respondent, the petitioner, in order to strengthen his review applications, has filed the present petition for perjury. Hence, this Court has no hesitation to hold that the above petition is devoid of merits and the same is liable to be dismissed.

8. In the result, this Civil Miscellaneous Petition is dismissed. No costs.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/03/2023

Sub Assistant Registrar(CS)

TO

1. The Principal Subordinate Judge, Pudukottai.

Copy to:

The Section Officer,
Judicial Section,
Madurai Bench of Madras High Court, Madurai

ORDER DATED : 13/02/2023

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ORDER

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CMP(MD). No.6619 of 2022

Giving direction and etc.
as stated within.

MGJ(16.03.2023) 3P 3C