



Rev.Aplc(MD)No.149 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.02.2023

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

Rev.Aplc(MD)No.149 of 2022

in

S.A(MD)No.535 of 2019

and

C.M.P(MD)No.10044 of 2022

1.M/s.Supervint Project (Pvt) Ltd.,
3rd Floor, Sai Heera Mundava Road,
Pune-411 036,
Maharashtra State,
Represented through his Power Agent,
P.N.Ravi.

2.M/s.Shoop Reality (South) Private Ltd,
1/3, Liyos Building,
Salaipur Road,
Opposite to T.V.Tower,
Valliyur-627 117.

... Petitioners/Respondents 1&2

Vs.

1.Ittoop T.Malliyekkal

... 1st Respondent/Appellant

2.M.Vasanth

3.M.Nellaiyappan

4.The Chief Engineer,
Non Conventional Energy Department,
800, Anna Salai,
Chennai-2.



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5.The Superintendent Engineer,
Wind Form Development,
Maharaja Nagar,
Palayamkotatai,
Tirunelveli-11.

6.The State of Tamil Nadu,
Represented by the District Collector,
Tirunelveli District. ... Respondents 2-6/Respondents 3-7

PRAYER : Review Petition filed under Order 47 Rule 1 Section 114 of Code of Civil Procedure, praying this Court to review the judgment and decree, dated 01.08.2022 made in S.A(MD)No.535 of 2019 on the file of this Court.

For Petitioner : Mr.M.Ajmal Khan
Senior Counsel
for M/s.Ajmal Associates

For R1 : Mr.T.S.R.Venkat Ramana
Senior Counsel
for M/s.V.Janakidevi

For R2 : No Appearance

For R4-R6 : Mr.C.Baskaran
Government Advocate

ORDER

The present review application has been filed seeking to review the order passed by this Court in S.A(MD)No.535 of 2019 on 01.08.2022.



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2. The learned senior counsel appearing for the review applicants had contended that the review petitioner is also one of the co-owners to the schedule of property and hence, the mandatory injunction decree or any other injunction cannot be passed as against a co-owner. He further contended that the plaintiff has not proved his exclusive title to the suit properties. On the other hand, the defendants have traced their title through documents.

3. The learned senior counsel appearing for the review applicants also contended that this Court has not appreciated the fact that neither Shanmugaiah Thevar nor his legal heirs were parties to Exhibits A.1 to A.5. He further contended that this Court has arrived at an erroneous conclusion that the defendants have not produced any documents to prove other co-sharers are also having rights to the property. Therefore, he prayed that the review application may be allowed and the second appeal may be re-heard.

4. Per contra, the learned senior counsel appearing for the 1st respondent/appellant had contended that the same grounds that were argued at the time of second appeal are being attempted to re-argue in the review application and hence, the review application is not maintainable.



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5. I have carefully considered the submissions made on either side.

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6. A perusal of the grounds of review indicate that an attempt is being made to re-argue the second appeal, which is not permissible under Order 47 Rule 1 of Code of Civil Procedure. No error apparent that has been brought to the notice of the Court so as to invoke the powers of this Court under Order 47 Rule 1 of Code of Civil Procedure. It is settled position of law, even an erroneous judgment does not warrant a review and it can only be challenged before an appropriate higher forum.

7. With these observations, this Review Application stands dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

16.02.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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R.VIJAYAKUMAR ,J.



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Order made in
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