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Review Application No.43 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2024

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

Review Application No.43 of 2024

E.Rathinam (Died)

1.R.Jagadeesan

2.Sumathi

3.Kavitha

... Applicants

Vs.

1.T.R.Prabhavathi

2.M.Velusamy

3.V.Selvakumar

... Respondents

[Cause title accepted vide Court order dated 10.01.2024 made in C.M.P.No.2079/2023 in Rev.Appl.Sr.No.9707/2023]

Prayer:- Review Application is filed under Order 47 Rule 1 R/w Section 114 of CPC 100 of C.P.C to review the order dated 20.09.2021 passed in C.M.P.No.8966 of 2019 in SA.Sr.No. 40904 of 2019.

For Applicants : M/s.C.Prakasam

For Respondents : M/s. T.Lavanya [R.1]
: M/s. A.Mohamed Ismail [R.2]
: M/s.V.S.Usha Rani [R.3]



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ORDER

The above Review Application has been filed seeking to review the order dated 29.02.2021 passed in C.M.P.No.8966 of 2019 in SA.Sr.No.40904 of 2019. When this order was passed there was no representation on behalf of the petitioner and only the respondents were represented.

2. The petition that was placed for the consideration of the Court was a petition to condone the delay of 2353 days in filing the Second Appeal. The said petition was dismissed and dismissed on the ground that no acceptable reasons had been given for the delay and this Court had also relied on the judgment of the Hon'ble Supreme Court reported in *AIR 2014 SC 746 – Basawaraj & Anr Vs. Special Land Acquisition Officer*.

3. It is against this order that the Review Application had been



filed. The review itself was filed with a delay of 294 days. This Court had condoned the delay by its order dated 29.02.2024 and thereafter the Review Application has been numbered and listed before this Court.

4. A perusal of the grounds of review would clearly show that the same is not in conformity with the provisions of order XLVII Rule 1 r/w. Section 114 of CPC. The petitioner has not made out any error that is apparent on the face of the record against the order under review nor have they pleaded the discovery of a new fact or evidence. The order under review had been passed by this Court taking into account the fact that the delay which is a staggering delay of 2353 days has not been explained properly. In fact, the Court had considered the fact that the petitioner had not given a concrete reason for the delay. The affidavit filed in support of the petition for condoning the delay has not given any reasons as to why the petitioner had not taken steps to file the appeal from 28.06.2012 to February 2019. In fact, in the affidavit, the



petitioner has stated that it was only in the year 2015 that he had contacted his counsel in the Trial Court who informed him that the First Appeal had been allowed thereby decreeing the suit. There is no explanation as to why the petitioner has not immediately filed the appeal and had waited for over 4 more years to file the appeal.

5. The Court had also quoted from the judgment of the Hon'ble Supreme Court in the decision cited supra and since there was no sufficient reason for condoning the delay the petition was dismissed.

6. It is challenging this order that the present Review Application has been filed and as stated supra the petitioner has not made out any case that the order under review suffers from an error apparent from the face of the record. Further, the order under review has been passed taking note of the reasons being absent in the affidavit filed in support of the petition to condone the delay. Therefore, I see no reason to review the order which has been passed after considering the records.



Review Application No.43 of 2024

Accordingly, the above Review Application stands dismissed. No costs.

08.03.2024

Index: Yes/No
Speaking order/non-speaking order
Neutral Citation: Yes/No
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P.T.ASHA, J.,



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shr

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