



C.R.P.(NPD)No.1616 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.04.2024

CORAM

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(NPD)No.1616 of 2024

and

C.M.P.No.8625 of 2024

M.Jayalalitha

.. Petitioner

Vs.

K.Bakthavatchalu

.. Respondent

Prayer : The Civil Revision Petition is filed under Section 114 of Civil Procedure Code, to set aside docket order dated 13.02.2024 passed by the learned Subordinate Judge at Arakkonam in E.P.No.4 of 2023 (with respect to the Review Application(unnumbered) in E.A.No.53 of 2023) and consequently, direct the learned Subordinate Judge at Arakkonam to number the Review Application in E.A.No.53 of 2023 in E.P.No.4 of 2023 and to decide the same on merits in accordance with law.

For Petitioner : Mr.R.Mohammed Ashish

For Respondent : Mr.J.Ravikumar for
Mr.G.Jeremiah



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ORDER

The present revision arises against an order passed by the learned Subordinate Judge at Arakkonam in dismissing the review application filed in Unnumbered SR in E.A.No.53 of 2023 in E.P.No.4 of 2023 on her file.

2. The parties have been litigating before the Court from the year 1998. The matter ended in a preliminary decree and finally, a final decree application was taken out and the same was decreed. In order to execute the same, E.P.No.4 of 2023 had been filed before the learned Subordinate Judge at Arakkonam. In this Execution Petition, an application was taken out under Order XXI Rule 58 read with Section 47 of the Code of Civil Procedure by the judgment debtor.

3. By a reasoned order, that application came to be dismissed on 05.08.2023. In order to review the same, an application was taken out by the civil revision petitioner on 24.01.2024. The said application was rejected at the numbering stage itself on 13.02.2024. Against which, the present revision.



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4. The learned counsel for the petitioner would submit that the executing Court had not taken into consideration the order passed by the High Court in A.S.No.386 of 2007 and therefore, the order of the executing Court is palpably erroneous. He would also state that the Court does not become *functus officio* after passing the order and it could decide the application under Order XLVII Rule 1 of the Code of Civil Procedure.

5. Heard Mr.R.Mohammed Ashish, appearing on behalf of the petitioner and Mr.J.Ravikumar representing Mr.G.Jeremiah, appearing on behalf of the respondents.

6. There is a difference between an order which is wrong and an order which suffers from an error apparent on the face of the record. If it is a wrong order, then, the remedy for the party is only to file an appeal or revision against the said order. The *sine qua non* for an order to be reviewed is that the said order must suffer from “*error apparent on the face of the record*”.



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7. I have to agree with Mr.R.Mohammed Ashish that the Court does not become *functus officio* on passing an order. That is the reason why the provision under Order XLVII Rule 1 of the Code of Civil Procedure has been provided.

8. Nonetheless, on going through the grounds of review, nowhere has the petitioner attacked the order as suffering from the requirements of Order XLVII Rule 1 of the Code of Civil Procedure. He would state that the order has been passed is contrary to the order of the High Court and therefore, the learned Judge should review the order.

9. When the threshold jurisdiction for review is high and the petitioner has not even satisfied that threshold, I do not find any mistake with the order of the learned Subordinate Judge other than the fact that she had held the Court had become *functus officio*.

10. The remedy for a party as against a wrong order, as pointed out above, is only to challenge the same before the appropriate Appellate Court.



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11. Giving a liberty to the petitioner to challenge the order, this Civil Revision Petition stands dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

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Index:Yes/No

Speaking Order :Yes/No

Neutral Citation:Yes/No

To

The learned Subordinate Judge,
Arakkonam



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V. LAKSHMINARAYANAN, J.

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