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Review Appl. No.211 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.12.2024

CORAM:

**THE HONOURABLE MR JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR JUSTICE R.SAKTHIVEL**

Review Application No.211 of 2024

Karthik Nagarajan
S/o. T.B.Nagarajan,
Rep. By his General Power of Attorney Agent,
Mr.T.B.Nagarajan, S/o. T.G.Balasubramaniam,
B-5, Visranthi Apartments,
66, Burkit Road, T.Nagar, Chennai 600 017. ... Review Applicant

Vs.

Rasika Balachander ... Respondent

Prayer : The Review Application has been filed under Order XLVII Rule 1
r/w Section 114 of the Code of Civil Procedure, to allow the review
application seeking review of the final order dated 22.04.2024 passed by
this Court in Civil Miscellaneous Appeal No.928 of 2024.



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For Rev.Applicant : Mr.P.R.Raman, Senior Counsel
for M/s. Anupam Raghuraman

For Respondent : Mr.R.Thiagarajan

ORDER

(Order of the Court was made by R.SUBRAMANIAN, J.)

The review is sought for on the ground that the procedure adopted by the Family Court in relying upon the documents without marking them has resulted in grave prejudice to the petitioner. We had also dismissed the Appeal on the ground that no document has been placed before the Family Court to prove that the wife is living with another person.

2. During the hearing of the Review Application, the learned Senior Counsel appearing for the review petitioner drew our attention to the order of the Family Court, where the Family Court has made specific reference to various documents produced and has held that these documents do not prove the case of the applicant before it. We found that those documents though referred to in the order were not marked in evidence.



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Therefore, we sought for a report from the Family Court, as to how, a reference was made to documents which were not marked. The Family Court has sent a report stating that the documents were looked into under Section 14 of the Family Courts Act. Section 14 of the Family Courts Act, reads as follows:

14. Application of Indian Evidence Act, 1872.—

A Family Court may receive as evidence any report, statement, documents, information or matter that may, in its opinion, assist it to deal effectually with a dispute, whether or not the same would be otherwise relevant or admissible under the Indian Evidence Act, 1872 (1 of 1872).

3. In our considered opinion, Section 14 of the Family Courts Act, does not enable the Family Court to refer to documents which are not proved or marked. In the light of the contents of the documents and the previous order passed by a Division Bench scaling down the maintenance, we are of the firm opinion that the review applicant should be given a chance to prove these documents by placing proper evidence before the Family Court.



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4. No doubt, Mr.R.Thiyagarajan, learned counsel appearing for the wife/respondent would submit that he did not avail of the opportunities. If only the Family Court has observed that the documents were not marked and therefore, they are not looked into we would not have chosen to entertain the review petition.

5. The fact that the Family Court had referred to the documents and come to a conclusion, we feel that an opportunity should be given to the review applicant to prove those documents in the light of the seriousness of the allegations contained therein. We should not be construed as having expressed any opinion on the merits of the matter. We are only on the procedural aspects, compliance with which we feel would have been more justice oriented.

6. Hence this Review Petition is allowed, the O.S. Appeal is also allowed for the same reasons contained supra. The order passed in the Civil Miscellaneous Appeal is set aside, the order of the Family Court is also set



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aside and the matter is remitted to the Family Court for fresh consideration.

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7. The Family Court will give opportunity to both the parties to lead evidence and thereafter dispose of the application in the manner known to law. The Family Court shall make every endeavor to dispose of the application within a period of four months from the date of receipt of a copy of the order and the parties will cooperate with the Family Court. It will be open to the respondent/wife to execute the order of the Family Court with reference to the release of the property.

(R.SUBRAMANIAN, J.) (R.SAKTHIVEL, J.)
06.12.2024

jv

Index :No
Speaking order
Neutral Citation : No



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and
R.SAKTHIVEL, J.

jv

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