



Rev.Aplc(MD)No.221 of 2019

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.03.2024

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Rev.Aplc(MD)No.221 of 2019

in

C.R.P.(MD)No.477 of 2019

I.D.Indira

... Petitioner

Vs.

1. M/s.M.S.R.Health & Educational Society,
represented by its Secretary Dr.Muthu Krishnan

2. I.Dhanaseelan

3. D.Shanthakumar

4. N.Kamal

5. T.R.Ragavendran

6. Sakunthala Achi

7. T.Thinakaran

8. K.Rajeswari

9. M.Saravanan

... Respondents

Prayer : This Review Application filed under Order 47 Rule 1 and 2 r/w Section 114 C.P.C., to review the order dated 13.03.2019 passed by this Court in C.R.P.(MD)No.477 of 2019.



WEB COPY



Rev.Aplc(MD)No.221 of 2019

For Petitioner : Mr.D.Saravanan

ORDER

This Review Application is directed against the order passed in C.R.P.(MD)No.477 of 2019 dated 13.03.2019 on the file of this Court.

2. The main contention of the petitioner is that the petitioner/plaintiff has pleaded the cause of action for filing the suit, but the trial Court, without ascertaining as to whether there is any cause of action, has proceeded to decide whether the cause of action is genuine or not and has rejected the plaint and this Court in the revision without notice to the other side after hearing the petitioner's side has dismissed the revision confirming the order of rejection passed by the trial Court.

3. It is pertinent to note that the second respondent/first defendant, who is the husband of the petitioner/plaintiff, has claimed title to the suit properties through the Will executed by his father Erulandi Mudaliar and on that basis, he sold the properties to the first respondent/sixth defendant. The petitioner/plaintiff, by alleging that her eldest son Saravanan expired



Rev.Aplc(MD)No.221 of 2019

WEB COPY

on 28.09.2002 and by alleging that the properties are joint family properties, has laid the above suit for partition. As rightly observed by the learned trial Judge and also by this Court, since the second respondent/ first defendant has claimed title through testamentary succession, the question of petitioner/plaintiff's son having share in the properties and on his death, the petitioner/plaintiff's claim for share in the properties does not arise. Hence, the impugned order cannot be found fault with.

4. A perusal of the Order 47 Rule 1 C.P.C., shows that the review of a judgment or an order could be sought (a) from the discovery of the new and important matters or evidence which after the exercise of due diligence was not within the knowledge of the applicant; (b) such important or evidence could not be produced by the applicant at the time when the decree was passed or the order made and (c) on account of some mistake or error apparent on the face of the record or any other sufficient reason. It is settled law that the review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of Order 47 Rule 1 C.P.C.. The Hon'ble Supreme Court in *Parsion Devi and Others vs Sumitri Devi and Others* reported in (1997)8 SCC 715, has observed thus:



Rev.Aplc(MD)No.221 of 2019

WEB COPY

“9. Under Order 47 Rule 1 CPC a judgment may be open to review inter alia if there is a mistake or an error apparent on the face of the record. An error which is not self evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of the record justifying the court to exercise its power of review under Order 47 Rule 1 CPC. In exercise of the jurisdiction under Order 47 Rule 1 CPC it is not permissible for an erroneous decision to be "reheard and corrected". A review petition, it must be remembered has a limited purpose and cannot be allowed to be "an appeal in disguise". ”

5. In ***Lily Thomas, Etc. vs Union Of India and Others*** reported in **(2000)6 SC 224**, the Hon'ble Apex Court has held that the power of review can be exercised for correction of a mistake and not to substitute a view and such powers can be exercised within the limits of the statute dealing with the exercise of power. It is beyond any doubt or dispute that the review Court does not sit in appeal over its own order. It is settled law that a rehearing of the matter is impermissible in law. The word “review” would mean the act of looking offer something again with a view to correction or improvement. No doubt, the review is the creation of a statute and not an inherent power. It is also not an appeal in disguise. A



Rev.Aplc(MD)No.221 of 2019

WEB COPY

judgment may be open to review inter alia if there is a mistake or an error apparent on the face of the record under Order 47 Rule 1 C.P.C. An error which is not self evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of the record justifying the Court to exercise its power to review under Order 47 Rule 1 C.P.C, and it is not permissible for an erroneous decision to be reheard and corrected, but a review petition must be remembered has a limited purpose and cannot be allowed to be an 'appeal in disguise'.

6. Even assuming that the decision of this Court was erroneous on merits, the review power cannot be exercised. In ***Inderchand Jain (D) through LRs., Vs. Motilal (D) through LRs.***, reported in **2009(5) CTC 365**, the Hon'ble Supreme Court has specifically held that the power of review may not be exercised on the ground that the decision was erroneous on merits. As already pointed out, the plaintiff has canvassed the very same points that were already raised and decided by this Court. It is pertinent to note that the review petitioner cannot re-argue the matter on merits.



Rev.Aplc(MD)No.221 of 2019

WEB COPY

7. In view of the above, this Court is of the clear view that the petitioner has not shown any error apparent on the face of the record or any other ground so as to attract Order 47 C.P.C., to interfere with the order of the revisional Court. Consequently, this Court concludes that the the review application is absolutely devoid of merits and the same is liable to be dismissed.

8. In the result, this Review Application is dismissed. No costs.

25.03.2024

NCC :yes/No
Index :yes/No
Internet:yes/No
csm



WEB COPY



Rev.Aplc(MD)No.221 of 2019



WEB COPY



Rev.Aplc(MD)No.221 of 2019

K.MURALI SHANKAR,J.

csn

Order made in
Rev.Aplc(MD)No.221 of 2019
in
C.R.P.(MD)No.477 of 2019

Dated : 25.03.2024