



Rev.Aplc(MD)No.146 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 02.12.2024

CORAM :

THE HONOURABLE Mr. JUSTICE G.ILANGO VAN

Rev.Aplc(MD)No.146 of 2024

S.Mathiyalagan

... Applicant / Petitioner

Vs

1.R.Karuppiah

2.Ramasubramanian

3.Marudhupandian

4.Thamaraiselvi

5.Kalidasan

... Respondents / Respondents

Prayer : This Review Application is filed under Order 47 Rule 1 & 2 r/w Section 114 of C.P.C., to review and recall the order 07.03.2024 passed in C.R.P(MD)No.2538 of 2023 on the file of this Court and allow the review application.

For Petitioner : Mr.J.Barathan

For R1 : Mr.D.Senthil

For R2 to R5 : Mr.S.Vellaichamy



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ORDER

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This Review application is filed to review and recall the order 07.03.2024 passed in C.R.P(MD)No.2538 of 2023 on the file of this Court.

2. The review petitioner herein filed a Civil Revision Petition challenging the order passed in I.A.No.237 of 2023 in O.S.No.724 of 2018 on the file of the I Additional Subordinate Court, Madurai. After hearing both sides, that petition was dismissed by this Court. Now, the Review Application is filed to review the above said order stating that the first respondent who is the first defendant before the Court filed written statement accepting the contention of the plaintiffs and prayed for decreeing the suit as prayed for. Whether it is a collusive suit between the plaintiffs and the first defendant was not considered by this Court. According to the review petitioner, this is an error apparent on the face of the record and this Court has also committed an error apparent on the face of the record in not mentioning the written statement filed by the first defendant. Similarly, no reference was made to the memo dated 09.03.2021 filed by the first defendant stating that he has cross examined



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P.W.1. This is according to the review petitioner will show the collusive nature between the plaintiffs and the first defendant. Since the first defendant is colluding with the plaintiffs, as per settled procedure he must lead evidence first. After the evidence let in by the revision petitioner, if permission is granted to the first defendant to lead evidence then it will lead to miscarriage of justice.

3. Learned counsel for the respondents would submit that absolutely there is no error apparent on the face of the record.

4. Learned counsel for the first respondent/ first defendant would draw the attention of this Court to the written statement filed by them before the trial Court. No doubt that as per the written statement filed by them, in the last portion, they have stated that they sought the decree to be passed in favour of the plaintiff as prayed for by them. But he is referring to the earlier paragraph which would show that he must also be given opportunity to lead evidence on his part. He would further submit that under the guise of review application the petitioner wants to rehear the matter and recall the order, which, is not permissible under law.



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5. CRP(MD)No.2538 of 2023 was filed against the order passed in I.A.No.237 of 2023 wherein and where under, the trial Court allowed the application filed by the first defendant and set aside the ex parte order passed against him and permitted him to participate in the trial Court process. This was objected by the review petitioner stating that, through out the trial process, the first defendant remained ex parte, watched the proceedings and the evidence let by the review petitioner. After coming to know about those facts only he all of a sudden filed a petition to set aside the ex parte order. If any permission is granted to him to participate in the proceedings, then according to the review petitioner, it will be against the established procedure.

6. But what sort of evidence is going to be let in by the first defendant before this Court, is beyond the enquiry to be made by this Court or by the trial Court. The first defendant has to choose his own choice, in the light of his written statement. But the right of the first defendant to participate in the proceedings cannot be taken away as mentioned in the Civil Revision Petition order. Mere assumption that his



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right may be affected, this review application is filed which may not lie.

Absolutely, there is no error apparent on the face of record. Under the guise of review, the matter cannot be ordered to be reopened for rehearing. So the grievance expressed by the revision petitioner is only illusory in nature and not real as on date. No prejudice will cause to the review petitioner in letting the first defendant in participating the proceedings. In fact, as mentioned in the Civil Revision Petition order, the review petitioner cannot be denied the opportunity. I find absolutely no reason to entertain this Review Application.

7. Accordingly, this Review Application is dismissed. No costs.

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NCC :Yes/No

Index :Yes/No

Internet : Yes/ No

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G.ILANGO VAN, J.

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To

- 1.The I Additional Subordinate Court, Madurai.
- 2.The Section Officer, VR Section,
Madurai Bench of Madras High Court, Madurai.

ORDER
IN
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