

(2001) 09 MAD CK 0073

In the Madras High Court

Case No : Review Petition No's. 59, 60 and 61 of 2001

Ayya Pillai

APPELLANT

Vs

Subeda Beevi and Others

RESPONDENT

Date of Decision : 28-09-2001

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 47 Rule 1, 100

Citation : (2001) 09 MAD CK 0073

Hon'ble Judges : E. Padmanabhan, J

Bench : Single Bench

Advocate : O. Venkatchalam, for the Appellant; Peppin Fernando, for the Respondent

Final Decision : Dismissed

Judgement

1. Heard Mr. O. Venkatchalam, learned counsel for the petitioner. The learned counsel took the Court through the judgment sought to be revised

and also the points for consideration framed by the Courts below and the substantial questions of law set out in the grounds of Second Appeal

Nos. 360 to 362 of 2001. So far as the judgment of this Court is concerned this Court had considered the substantial questions of law advanced

by Mr. O. Venkatachalam, learned counsel for the appellant in all the Second Appeals. On fact this court held that they are not substantial

questions of law and that the judgments of the Courts below are not liable to be interfered with.

2. Thereafter, the present petitions for review have been filed under Order 47, Rule 1 of the Code of Civil Procedure. The learned Counsel's

attempt is to re-argue the entire matters in the Second Appeal's on merit, which is not permissible in a review petition. This Court, after

consideration of the two substantial questions of law put forth by the learned Counsel held that they are no questions of law but they are findings of

the facts, which the two Courts have concurrently recorded while assigning valid reasons. Appreciation of the evidence by the two Court's below

is not liable to be interfered with in exercise of Powers conferred u/s 100 of the Code of Civil Procedure, unless it is shown that the appreciation of

evidence is perverse or vitiated by error apparent on the face of record. This is not the case here. Hence, this Court held that the two questions of

law advanced by the learned Counsel in the Second Appeals are not the questions of law and they are mere questions of fact. Being concurrent

findings of facts, this Court dismissed the Second Appeals.

3. This Court will not be justified in permitting the petitioner to re-argue the matter, as has been held by the Supreme Court in *Pariban Devi v.*

Sumitri Devi, 1997 (8) SCC 215. The Supreme Court has laid down that review is limited to the grounds set out in Order 47, Rule 1, CPC on the

ground that there is a mistake or an error apparent on the face of the record and review petition is not an appeal. This Court holds that there are no

merits in the review petitions and the petitioner cannot be permitted to re-argue the Second Appeal. No case has been made out for review.

Hence, the review petitions are dismissed.