

(2004) 10 MAD CK 0130
In the Madras High Court
Case No : Review Application No. 82 of 2004

R. Lakshmanan

APPELLANT

Vs

Mannarsami and Others

RESPONDENT

Date of Decision : 19-10-2004

Acts Referred:

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

Citation : (2004) 4 MLJ 684

Hon'ble Judges : S. Ashok Kumar, J;P.D. Dinakaran, J

Bench : Division Bench

Advocate : S.V. Jayaraman, for the Appellant;

Final Decision : Dismissed

Judgement

P.D. Dinakaran, J.—The first respondent herein filed O.S.No.126 of 1985 on the file of the Sub Court, Kumbakonam seeking relief of declaration and possession of the suit properties, against the mother of the applicant herein, viz., Saraswathi Ammal (deceased) and the learned Subordinate Judge, Kumbakonam, by judgment and decree dated 31.3.1987 decreed the suit as prayed for.

2. As against the judgment and decree dated 31.3.1987 made in O.S.No.126 of 1985, the mother of the applicant herein preferred A.S.No.804 of 1990 on the file of this Court. The learned Single Judge, by judgment and decree dated 28.4.2000 confirmed the judgment and decree of the learned Subordinate Judge, Kumbakonam.

3. Aggrieved by the judgment and decree dated 28.4.2000 made in A.S.No.804 of 1990, the applicant herein and his mother, Saraswathi Ammal (deceased), preferred a Letters Patent Appeal bearing No.189 of 2000 on the file of this Court. However, the Division Bench of this Court, by judgment dated 17.11.2000 dismissed the appeal, holding that since the mother of the applicant, viz., Saraswathi Ammal (deceased) died, the property only goes back to the first respondent herein and not to anyone else, much less the present applicant.

Hence, this review application.

4. Mr.S.V.Jayaraman, learned senior counsel for the applicant, contends that the testator, Harikrishna has signed all the documents throughout his life and affixed thumb impression in Ex.A2, the Will, and therefore, the same throws a doubt as to the trustworthiness of the Will.

5. 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. A review petition, it must be remembered has a limited purpose and cannot be allowed to be "an appeal in disguise".

6. Finding that the ground argued by the learned senior counsel for the applicant does not justify the court to exercise its power of review conferred under Order 47 Rule 1 of the CPC, this review application is dismissed.