

(1998) 02 MAD CK 0111

In the Madras High Court

Case No : Civil Revision Petition No. 2087 of 1996 and C.M.P.No. 11517 of 1996

Subby Reddy @ Subbareddy

APPELLANT

Vs

Leelavathy Ammal and 2 others

RESPONDENT

Date of Decision : 19-02-1998

Acts Referred:

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

Citation : (1998) 1 CTC 723 : (1998) 2 LW 348 : (1998) 3 MLJ 84

Hon'ble Judges : M. Karpagavinayagam, J

Bench : Single Bench

Advocate : Mr. D. Stephen, for the Appellant;

Final Decision : Dismissed

Judgement

M. Karpagavinayagam, J.

1. As against the order rejecting the petition filed by the petitioner under Order 47, Rule 1, C.P.C. to review the judgment delivered in

O.S.No.202 of 1988 on 6.2.1995, he has presented this revision before this Court.

2. Originally, the petitioner filed the suit in O.S.No. 202 of 1988 for declaration of title and for recovery of possession as against the defendants,

the respondents herein. During the course of trial, the trial Court found that there is no jurisdiction to try the suit and therefore, it dismissed the

same on 12.3.1993. As against that judgment, the petitioner filed C.M.A.No.24 of 1993 and by the order dated 21.3.1994 the appellate Court

set aside the judgment dismissing the suit and remanded the matter to consider the question afresh.

3. On 5.4.1994 the counsel for the petitioner made and endorsement that he would not press the jurisdiction point. Therefore, on 3.10.1994 the

trial was conducted afresh. After examining of the witnesses, on 6.2.1995 the trial Court dismissed the suit. Instead of filing an appeal against the

said dismissal, the petitioner on 24.4.1995 filed I.A.No.882 of 1995 under Order 47, Rule 1, C.P.C. to review the judgment on the ground that

the jurisdiction point was not decided and that the entire appreciation of the evidence was under the misconception of law and facts. This was

objected to by the defendants by filing a counter.

4. After hearing both the parties, the teamed District Munsif, Aruppukottai, on the basis of the reasonings, dismissed the said petition, as there is no

ground to seek for review. This is challenged in this revision.

5. The reading of the Order 47, Rule 1, C.P.C. would go to show that the powers of review could be invoked only when there is a patent error

on the fact of it. The review petition filed in this case is on the ground that oral and and documentary evidence and written arguments were not

considered and that the judgment in O.S.No.202 of 1988 was opposed to law, facts, evidence and circumstances of the case.

6. If the plaintiff has got grievance that the evidence adduced by him has not been properly considered, it is for him to file an appeal before the

appropriate forum. This may not be a ground for review.

7. Moreover, it is an admitted case that after the remand by the appellate Court, the counsel for the petitioner requested the trial Court to have a

de novo trial and stated that he would not press for the point of pecuniary jurisdiction. So, on the basis of the representation and the endorsement

on behalf of the plaintiff, the Court had a full trial and on appreciation of the evidence, it found that the plaintiff was not entitled to the reliefs sought

for

8. Even in this revision, it is merely mentioned that the trial Court has not properly appreciated the evidence adduced by the plaintiff. Neither in the

grounds nor in the affidavit filed before, this Court, there is no reason shown as to why the point of pecuniary jurisdiction was not pressed and de

novo trial was sought. On going through the impugned order and the earlier judgment and decree dated 6.2.1995 made in O.S.No.202 of 1988, I

do not find any reason to differ from the reasonings given by the lower Court to dismiss the petition for review.

9. In the result, the revision is dismissed. Consequently, C.M.P.No. 11517 of

1996 is also dismissed.