

ORDER BELOW EXH.28 IN REGULAR CIVIL SUIT NO. 28/2014.

1. Perused application and say filed by third person vide Exh.30. Heard both sides. I have also gone through the record and proceeding.

2. By filing this application, the plaintiff prayed for review of order passed below Exh.15 which strongly objected by the other side.

3. The learned advocate for plaintiff argued that, the order passed below Exh.15 is prima facie wrong with error apparent on the face of the record and due to which the plaintiff's rights were deprived and as there is no necessity to implead third party as defendant in this suit, application Exh.15 is ought to be rejected. So, he prayed for review of order passed on Exh.15. On the other hand, the learned advocate for third party argued that, the present application of review is not tenable in the eyes of law as in this application the plaintiff seems to show to this Court that how the order passed on Exh.15 is erroneous. But, review of erroneous decision or order is not permissible and plaintiff has remedy to file appeal/revision on the said order. So, on this ground he prayed for rejection of this application.

4. On the back ground of above rival contentions and submissions, if we looked into section 114 and Order 47, Rule 1 of C.P.C., which read as under,-

Order 47, Rule 1-

(1) any person considering himself aggrieved,-

(a) by any decree or order from which an appeal is allowed, but from which no appeal has been preferred.

(b) by a decree or order from which no appeal is allowed, or

(c) by a decision on a reference from a Court of Small Causes,

and who, from the discovery of new and important mater or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the Court which passed the decree or made the order.

5. So, considering this legal position, if we go through the order passed below Exh.15 and the present application, the plaintiff has not shown that there is discovery of new and important matter which could not be produced at the time of passing order. He failed to satisfy that which is the mistake or error apparent on the face of record. Admittedly, the order on Exh.15 was came to be passed on merit, after hearing both parties at sufficient length and time. Further, if plaintiff has any grievance against the order passed below Exh.15, he is having remedy to approach higher authority as this Court cannot change his own order. So, considering all these aspects, the plaintiff has failed to make out the case as contemplated under section 114 and Order 47, Rule 1 of the C.P.C. to review the order passed below Exh.15. Accordingly, the application filed by plaintiff deserves to be rejected. Hence the order.

ORDER

The application stands rejected with costs.

Vengurla.
Date:- 28/11/2014.

(D. S. Zanvar)
Civil Judge Jr. Dn., Vengurla.