



REV.APLC(MD)Nos.124 and 138 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 24.11.2022

PRONOUNCED ON: 28.03.2023

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

**REV.APLC(MD)Nos.124 and 138 of 2022
and
C.M.P.(MD)No.7959 and 9683 of 2022**

Rev.Aplc(MD)No.124 of 2022:

K.Subramanian : Review Petitioner/3rd Appellant

Vs.

1.S.Arjunan

2.S.Jagadeesan : Respondents 1 and 2/Appellants 1 and 2

3.K.R.Raviselvan : 3rd Respondent/Respondent

PRAYER:- Review Application filed under Order 47 Rule 1 and 2 and Section 114 of the Code of Civil Procedure against the order passed by this Court in A.S.(MD)No.17 of 2012, dated 04.02.2022.

For Petitioner : Mr.S.Meenakshi Sundaram
Senior Counsel
for Mr.M.N.Rajapanth



WEB COPY



REV.APLC(MD)Nos.124 and 138 of 2022

For Respondents :Mr.K.P.Narayanakumar
for R.1
: M.Jayanthinathan
for R.2
: Mr.A.R.L.Sundaresan
Senior Counsel
for Mr.M.P.Senthil
for R.3

Rev.Aplc(MD)No.138 of 2022:

S.Arjunan : Review Petitioner/1st Appellant

Vs.

1.S.Jagadeesan
2.K.Subramanian : Respondents 1 and 2/Appellants 2 and 3

3.K.R.Raviselvan : 3rd Respondent/Respondent

PRAYER:- Review Application filed under Order 47 Rule 1 and 2 and Section 114 of the Code of Civil Procedure against the order passed by this Court in A.S.(MD)No.17 of 2012, dated 04.02.2022.

For Petitioner :Mr.K.P.Narayanakumar

For Respondents :Mr.M.Jayanthinathan
for R.1
: Mr.S.Meenakshi Sundaram
Senior Counsel
for Mr.M.N.Rajapanth
for R.2



WEB COPY



REV.APLC(MD)Nos.124 and 138 of 2022

: Mr.A.R.L.Sundaresan
Senior Counsel
for Mr.M.P.Senthil
for R.3

COMMON ORDER

These Review Applications are directed against the judgment and decree passed in A.S.(MD)No.17 of 2012, dated 04.02.2022, on the file of this Court, dismissing the Appeal Suit, confirming the judgment and decree passed in O.S.No.6 of 2009, dated 19.11.2011, on the file of the District Court, Karur.

2. The suit is for specific performance of the agreement dated 16.04.2007.

3. For the sake of convenience and brevity, the parties will hereinafter be referred as per their status/ranking in the original suit.

4. The case of the plaintiff is that he had close relationship with the first defendant for about two decades, along with them two others were Trustees in a Public Charitable Trust viz., Madhavi Memorial Trust, that the first defendant is a resident of United States, that the first defendant



REV.APLC(MD)Nos.124 and 138 of 2022

WEB COPY

in April 2007 offered to sell the suit property to an extent of 25.8 acres in Thennilai Village, Karur District, representing that he was the absolute owner of the entire property, that the plaintiff believing the representation had agreed to purchase the property and both of them have fixed the sale price at Rs.12.75 Lakhs, that the first defendant at that time represented that he had decided to purchase a property at Kangeyam and for payments of the sale price sought substantial advance amount from the plaintiff, that the plaintiff accordingly had paid a sum of Rs.12,51,100/- as advance and out of the said amount, a sum of Rs.11,66,100/- was paid by way of Demand Draft in favour of the seller of the property at Kangeyam and Rs.85,000/- by way of cash towards stamp duty and registration charges for the said purchase, that the plaintiff and the first defendant then entered into a sale agreement on 16.04.2007, whereunder the first defendant acknowledged the receipt of Rs.12,51,100/- as advance towards sale of the suit property, that the first defendant informed that he was immediately leaving India for U.S.A, he will complete the sale on his next trip to India and that the first defendant had agreed to receive the balance sale price of Rs.24,000/- and complete the sale within six months, that the plaintiff was always ready and willing to pay the balance sale price and complete the sale, despite several



REV.APLC(MD)Nos.124 and 138 of 2022

WEB COPY

requests and also having come to India once or twice, the defendant sought further time for producing the copies of title deeds as well for the completion of sale, that the plaintiff came to know through his relatives and friends the first defendant is attempting to sell the suit property suppressing the suit sale agreement, that the plaintiff immediately issued a legal notice dated 10.11.2007 to the first defendant directing to receive the balance sale price and to complete the sale, that the notice sent to the USA address of the defendant was returned as refused to receive and therefore, the plaintiff was constrained to file the suit seeking specific performance of the agreement of sale dated 16.04.2007 or for refund of the advance amount with interest, in the alternative.

5. The defence of the first defendant is that the suit property is the ancestral property of the first defendant and his two sisters viz., Pappathi and Saraswathi and hence, the first defendant alone cannot execute the suit sale agreement independently, that the first defendant along with the plaintiff and two others were the trustees of Madhavi Memorial Trust, that the plaintiff and the first defendant were having dealings among themselves, that when the plaintiff needed funds for purchase of dyeing factory in Karur, the first defendant sent US dollars 120,000 on



REV.APLC(MD)Nos.124 and 138 of 2022

WEB COPY

04.06.2002 to the plaintiff and also transferred from his NRI account to ICICI Bank account of the plaintiff's wife on couple of occasions and on such dealings, the plaintiff was liable to pay the amount to the first defendant, that when the first defendant was in Karur during April 2007, the plaintiff had expressed his intention to pay back the amount due to the first defendant, accordingly, he had paid a sum of Rs.11,66,100/- by way of Demand Draft in favour of the vendors of the first defendant, for which, the plaintiff had also agreed and gave the Demand Draft for Rs. 11,66,100/-, that the plaintiff, taking advantage of the same, has fabricated the suit sale agreement and filed the above false suit, that the first defendant for himself and as Power of Attorney of his daughter Manimekalai along with his two sisters viz., Pappathi and Saraswathi, had sold the part of the suit property to the defendants 2 and 3 vide sale deed dated 03.03.2009 for Rs.15,00,000/-, that the plaintiff has not come with clean hands to get the relief of specific performance and suppressed the real facts in order to get unlawful gain and prayed that the suit is liable to be dismissed.

6. Pending suit, the defendants 2 and 3, the purchasers of a portion of the suit property from the first defendant were impleaded.



REV.APLC(MD)Nos.124 and 138 of 2022

WEB COPY

7. The defence of the defendants 2 and 3 is that the first defendant for himself and as Power Agent of his daughter Manimekalai and his two sisters vzi., Pappathi and Saraswathi had sold the suit property to them by a sale deed dated 03.03.2009 for Rs.15,00,000/- and in pursuance of the above sale, they were in possession of the property purchased and they were in common possession and enjoyment of the same and that the sale deed dated 03.03.2009 is for a good and valuable consideration and the same is valid in law.

8. Based on the above pleadings, the trial Court has framed the following issues:

(i) Whether the sale agreement entered between the plaintiff and the first defendant on 16.04.2007 is true?

(ii) Whether the first defendant received Rs.12,51,100/- as advance in pursuance of the sale agreement dated 16.04.2007 from the plaintiff?

(iii) Whether the defendants 2 and 3 are bona fide purchasers of the suit property without notice?

(iv) Whether the plaintiff is entitled to the relief of specific performance?



REV.APLC(MD)Nos.124 and 138 of 2022

WEB COPY

(v) To what relief, the plaintiff is entitled to?

9. During trial, the plaintiff examined himself as PW1 and 4 other witnesses as PW2 to PW5, exhibited 12 documents as Ex.A1 to Ex.A12 and four witness documents as Ex.X1 to Ex.X4. On the side of the defendants, the first and third defendant have examined themselves as DW1 and DW2 respectively and exhibited 15 documents as Ex.B1 to Ex.B15. The learned trial Judge, upon considering the evidence both oral and documentary and on hearing the arguments of both sides, by holding that the execution of Ex.A1 is proved to be true, has decided the issues 1, 2 and 4 in favour of the plaintiff and by holding that the sale in favour of the defendants 2 and 3 is null and void, has decided the third issue against the defendants 2 and 3, decreed the suit granting the relief of specific performance, directing the plaintiff to deposit the balance amount of Rs.24,000/- within two months and directing the first defendant to execute the sale deed within three months from the date of decree.



REV.APLC(MD)Nos.124 and 138 of 2022

WEB COPY

10. Aggrieved by the above judgment and decree, the defendants preferred an appeal in A.S.(MD)No.17 of 2012 before this Court. Pending appeal, the defendants filed an application in M.P.(MD)No. 2 of 2012 for reception of additional evidence under Order 41 Rule 27 C.P.C. The learned Judge of this Court, after hearing the arguments in the appeal along with the application for reception of additional evidence, has passed an order dated 29.04.2016 allowing the application in M.P.(MD)No.2 of 2012 and ordered to send the matter back to the trial Court, so as to enable the appellants to adduce both oral and documentary evidence with regard to the details as stated in the Right To Information Act communication dated 19.01.2012 and permitting the plaintiff to cross-examine the witnesses and also to adduce additional evidence in that regard.

11. Pursuant to the directions of this Court, the Assistant Treasury Officer attached to Kulithalai Treasury was examined as DW3 and three documents Ex.X5 to Ex.X7 came to be exhibited through him. After the receipt of the additional evidence through the District Court, Karur, another learned Judge of this Court, on hearing the arguments of both



REV.APLC(MD)Nos.124 and 138 of 2022

side and on considering the materials available on record, has passed the impugned judgment dated 04.02.2022 dismissing the appeal suit in A.S.(MD)No.17 of 2012 and thereby confirmed the judgment and decree dated 19.11.2011 in O.S.No.6 of 2009, on the file of the District Court, Karur. Aggrieved by the dismissal of the appeal, the first defendant/ 1st appellant and the third defendant/3rd appellant have preferred separate review applications in Rev.Aplc(MD)Nos.138 of 2022 and 124 of 2022 respectively before this Court.

12. Due to the retirement of the learned Judge who delivered the impugned judgment dated 04.02.2022, these review applications, on the basis of the roaster, were placed before this Court.

13. The learned Senior Counsel appearing for the review petitioner in Rev.Aplc(MD)No.124 of 2022 would mainly contend that the defendants marked Ex.X5 to Ex.X7 to prove that the stamp paper of Ex.A1 was disbursed on 06.09.2007 from the Karur Treasury, subsequent to the alleged date of agreement dated 16.04.2007. Further the trial Court had submitted the deposition of DW3 and Ex.X5 to Ex.X7, the additional evidence recorded as per the directions of this Court. Whereas the



REV.APLC(MD)Nos.124 and 138 of 2022

WEB COPY

learned Judge of this Court, without considering the same, has observed that no document was produced to prove the said contention.

14. The learned Senior Counsel would further contend that Ex.B6 to Ex.B8 would categorically prove that the suit properties are the ancestral properties of the first defendant, apart from the two sisters of first defendant Pappathi and Saraswathi, his daughter Manimekalai is also entitled to a share in the suit property and he alone cannot sell the suit property and despite the submission of the above evidence, the learned Judge had observed that no document was filed to prove the contention of the first defendant that the suit property is ancestral property.

15. It was further pointed out that in the final para of impugned judgment, 7 Interlocutory Applications which were pending in M.P. (MD)Nos.1 to 3 of 2012, M.P.(MD)Nos.1 to 3 of 2013 and C.M.P. (MD)No.10408 of 2018 were ordered to be closed, consequent to the dismissal of the appeal. In spite of the pendency of the application in C.M.P.(MD)No.10408 of 2018 filed for the reception of additional evidence under Order 41 Rule 27 C.P.C., and M.P.(MD)No.1 of 2013



REV.APLC(MD)Nos.124 and 138 of 2022

WEB COPY

filed under Order 22 Rule 10 C.P.C., to implead a third party as 4th appellant in the above appeal, the learned Judge without considering and deciding the above applications, has simply closed the petitions and was argued that the same would also amount to an error apparent on the face of the record.

16. The learned Senior Counsel would further contend that during the pendency of the appeal and as per the directions of this Court in M.P. (MD)No.2 of 2012, the trial Court had recorded the oral evidence of DW3, exhibited Ex.X5 to Ex.X7 and submitted the same before this Court. Whereas the impugned judgment does not contain any list or Annexure giving the particulars about the examination of DW3 nor about the marking of Ex.X5 to Ex.X7 and that the same would also amount to a patent mistake.

17. The learned Senior Counsel appearing for the plaintiff would contend that since the defendants had taken a specific stand that the suit sale agreement – Ex.A1 is a forged and fabricated document, the first defendant filed an application to send Ex.A1 for comparison by an expert, that the trial Court summoned a retired Assistant Director of



REV.APLC(MD)Nos.124 and 138 of 2022

WEB COPY

Forensic Department, Chennai, to compare the documents as prayed for by the first defendant, that the said expert in his report would submit that the signatures found in Ex.A1 were that of the first defendant, that the first defendant by disputing the expert opinion of the said retired expert, filed another application to send the agreement to the Regional Forensic Department, Madurai. A report was received and the Scientific Expert was also examined as PW4 and in that report too the signature found in Ex.A1 was concluded to be that of first defendant.

18. The learned Senior Counsel would further contend that the first defendant himself had admitted the receipt of Rs.11,66,100/- in his evidence, that the first defendant had not denied the receipt of Rs. 85,000/- as cash from the plaintiff to purchase stamp papers to be utilised for preparing the sale deed, to purchase the property at Kangeyam and that the trial Court has rightly come to a decision that the execution of Ex.A1 – sale agreement is proved to be true. The learned Senior Counsel would further contend that during the pendency of the suit, the first defendant in an attempt to cheat the plaintiff, has executed a sale deed in favour of defendants 2 and 3 in respect of part of the suit property and by relying Section 52 of the Transfer of Property Act, the trial Court has



REV.APLC(MD)Nos.124 and 138 of 2022

rightly decided that the sale deed in favour of the defendants 2 and 3 under Ex.B7 is a void document and the defendants 2 and 3 cannot claim any benefit out of Ex.B7.

19. The learned Senior Counsel for the plaintiff would further contend that the appellate Court had considered the entire evidence adduced before the trial Court and also the evidence recorded by the trial Court during the pendency of the appeal as directed by this Court, and went on to dismiss the appeal. He would further contend that as the petitioners have not shown any error apparent on the face of the record nor any other grounds sufficient enough to invoke Order 47 C.P.C., and the prayer of reviewing the judgment of appellate court is out of question.

20. The points that arise for consideration are :

(i) Whether the judgment of this Court in A.S.(MD)No.17 of 2012, dated 04.02.2022 needs to be reviewed?

(ii) Whether there exists patent errors, errors apparent on the face of the judgment dated 04.02.2022 which entails this Court to invoke Order 47 Rule 1 CPC ?



REV.APLC(MD)Nos.124 and 138 of 2022

WEB COPY

21. At the inception, it is imperative to consider the legal position with regard to a review. The learned Senior Counsel for the plaintiff has relied on the following decisions:

(i) 16 LW 37 : AIR 1922 P.C. 112 (Chajju Ram Vs. Neki and Others):

Privy Council as early as in 1922 has held that Order 47 Rule 1 C.P.C., must be read as in itself definitive of the limits within which review is now permitted and that reference to practice under former and different statutes is misleading and further interpreted the words “any other sufficient reason” in Order 47 Rule 1 C.P.C., means a reason sufficient on grounds atleast analogous to those specified immediately previously and that the fact that the judgment proceeded on an incorrect exposition of the law is no sufficient reason for permitting a review thereof.

(ii) 2007(5) CTC 588 (Rajeswari and another Vs. Sri Bhuvaneswari Cycle Mart.)



WEB COPY

“15. On the facts and circumstances of the case, I can come to a conclusion that, where without any elaborate argument or long-drawn process of reasoning, one could point out the error and say that there is a substantial point of law which stares one in the face and there could reasonably be no two opinions entertained about it, a clear case of an error apparent on the face of record is made out. There cannot be reappraisal of the entire matter or evidence on record for finding the error. If there is reappraisal, it would amount to exercise of appellate jurisdiction, which is not permissible in the application for review. “

(iii) (2008)8 SCC 612 (State of West Bengal and others Vs.Kamal Sengupta and another):

“22. The term ‘mistake or error apparent’ by its very connotation signifies an error which is evident per se from the record of the case and does not require detailed examination, scrutiny and elucidation either of the facts or the legal position. If an error is not self-evident and detection thereof requires long debate and process of reasoning, it cannot be treated as an error apparent on the face of the record for the purpose of Order 47 Rule 1 CPC or [Section 22\(3\)\(f\)](#) of the Act. To put it differently an order or decision or judgment cannot be corrected merely because it is erroneous in law or on the ground that a different view could have been taken by the Court/Tribunal on a point of fact or law. In any case, while exercising the power of review, the concerned Court/Tribunal cannot sit in appeal over its judgment/decision.”



REV.APLC(MD)Nos.124 and 138 of 2022

WEB COPY

(iv) (2013)8 SCC 320 (Kamlesh Verma Vs. Mayawati and others):

“11. Further, Part VIII Order 40 of the Supreme Court Rules, 1966 deals with the review and consists of four rules. Rule 1 is important for our purpose which reads as under:

“1. The Court may review its judgment or order, but no application for review will be entertained in a civil proceeding except on the ground mentioned in Order 47 Rule 1 of the Code, and in criminal proceeding except on the ground of an error apparent on the face of the record.”

(v) (2018)4 SCC 587 (Sivakami and Others Vs. State of Tamil Nadu and Others):

“18. The scope of the appellate powers and the review powers are well defined. The power of review under Order 47 Rule 1 of the Code of Civil Procedure, 1908 is very limited and it may be exercised only if there is a mistake or an error apparent on the face of the record. The power of review is not to be confused with the appellate power. The review petition/application cannot be decided like a regular intra court appeal. On the other hand, the scope of appeal is much wider wherein all the issues raised by the parties are open for examination by the Appellate Court.”



REV.APLC(MD)Nos.124 and 138 of 2022

(vi) 2020(3) MWN (Civil)564 (Shri Ram Sahu (Dead)

WEB COPY

through L.Rs., and others Vs. Vinod Kumar Rawat and Others):

“9. To appreciate the scope of review, it would be proper for this Court to discuss the object and ambit of Section 114 CPC as the same is a substantive provision for review when a person considering himself aggrieved either by a decree or by an order of Court from which appeal is allowed but no appeal is preferred or where there is no provision for appeal against an order and decree, may apply for review of the decree or order as the case may be in the Court, which may order or pass the decree. From the bare reading of Section 114 CPC, it appears that the said substantive power of review under Section 114 CPC has not laid down any condition as the condition precedent in exercise of power of review nor the said Section imposed any prohibition on the Court for exercising its power to review its decision. However, an order can be reviewed by a Court only on the prescribed grounds mentioned in Order 47 Rule 1 CPC, which has been elaborately discussed herein above. An application for review is more restricted than that of an appeal and the Court of review has limited jurisdiction as to the definite limit mentioned in Order 47 Rule 1 CPC itself. The powers of review cannot be exercised as an inherent power nor can an appellate power can be exercised in the guise of power of review.”

22. The learned Counsel appearing for the defendants have relied on the judgment of Hon'ble Supreme Court reported in **CDJ 2018 SC**



REV.APLC(MD)Nos.124 and 138 of 2022

WEB COPY

828 (M/s Goel Ganga Developers India Pvt., Ltd., Vs. Union of India through Secretary Ministry of Environment and Forests and Others),

wherein the Hon'ble Apex Court has held that there is a presumption that judicial authorities must have dealt with all the contentions raised before them and if a party urges that some of the contentions urged by it have not been taken into consideration then it has to file a review application and it is but, obvious that such review application should be heard by the same Bench which had originally heard the matter and the following passage is extracted hereunder for better appreciation:

“36. In this behalf, we must remind ourselves that the power of review is a power to be sparingly used. As pithily put by Justice V.R. Krishna Iyer, J., “A plea for review, unless the first judicial view is manifestly distorted, is like asking for the moon” [(1980)2 SCC 167] . The power of review is not like appellate power. It is to be exercised only when there is an error apparent on the face of the record. Therefore, judicial discipline requires that a review application should be heard by the same Bench. Otherwise, it will become an intra court appeal to another Bench before the same court or tribunal. This would totally undermine judicial discipline and judicial consistency.”

23. The learned Counsel for the defendants have also relied on the judgment of this Court in ***District Collector, Chennai Vs. R.Vetri and***



REV.APLC(MD)Nos.124 and 138 of 2022

WEB COPY

others reported in **AIR 2022 MADRAS 293**, wherein the learned Judge of this Court has held as follows:

“10. Rule 29(1) of The Madras High Court Writ Rules, 2021 specifically provides that the Court may review its orders but no petition for review will be entertained except on the grounds mentioned in Order XLVII, Rule 1 of the Code of Civil Procedure, 1908. One of the ground that is provided under Order XLVII is “for any other sufficient reason”. The words “any other sufficient reason” has been interpreted to mean a reason sufficient on grounds atleast analogous to those specified immediately previously, i.e. excusable failure to bring to the notice of the Court new and important matters or error apparent on the face of the record. In other words, if the fact had been brought to the notice of the Court, a different view would have been taken by the Court. One ground which can easily fit in the words “any other sufficient reason” is fraud on the Court.”

24. The learned Counsel has also referred a portion in the said judgment wherein the learned Judge has observed that the Court cannot shut its eyes in a case where the document, on the face of it, is found to be fabricated and fraudulent only on the ground that the Civil Court has not rendered any findings on the genuineness of the document and had relied upon it and decreed the suit in favour of the petitioners.



REV.APLC(MD)Nos.124 and 138 of 2022

WEB COPY

25. At this juncture, it is necessary to refer the wordings of Justice V.R.Krishna Iyer in ***Sow Chandra Kante and another Vs. Sheikh Habib*** reported in ***(1975)1 SCC 674***, which is extracted hereunder:

“ A review of a judgment is a serious step and reluctant resort to it is proper only where a glaring omission or patent mistake or like grave error has crept in earlier by judicial fallibility. A mere repetition, through different Counsel, of old and overruled arguments, a second trip over ineffectually covered ground or minor mistakes of inconsequential import are obviously insufficient.”

26. Culling out, a review of a judgment or an order could be sought (a) from the discovery of new and important matters or evidence which after the exercise of due diligence was not within the knowledge of the applicant; (b) such important evidence could not be produced by the applicant at the time when the decree was passed or the order was made ; and (c) on account of some mistake or error apparent on the face of the record or any other sufficient reason. It is settled law that a review is not an appeal and have to be in strict compliance to the scope and ambit of Order 47 Rule 1 C.P.C. The dictionary meaning or the literal



REV.APLC(MD)Nos.124 and 138 of 2022

WEB COPY

meaning of the word “review” is “the examining or considering again of something in order to decide if changes are necessary.” In legal parlance, it means to reconsider, to look again or to re examine.

27. Bearing in mind the legal decisions referred supra, the present case on hand is considered.

28. Admittedly, 7 Interlocutory Applications were pending when the arguments in the appeal was heard in the year 2022 and all the seven applications were ordered to be closed. It is pertinent to note that out of the seven, one was for (M.P.(MD)No.1 of 2013) impleadment, one (C.M.P.(MD)No.10408 of 2018)was for reception of additional evidence and the other petitions were for stay, to vacate stay, to raise additional grounds, for interim injunction. Ultimately as the appeal was ordered to be dismissed, the dismissal of other applications cannot be faulted with. Whereas learned Judge having referred about the pendency of the impleading and reception of additional evidence applications, had not considered nor decided the same.



REV.APLC(MD)Nos.124 and 138 of 2022

WEB COPY

29. As rightly contended by the learned Senior Counsel for the first defendant, the application for reception of additional evidence under Order 41 Rule 27 C.P.C., must have been taken along with the appeal and non consideration of the above applications could only be considered as a glaring omission or patent mistake as stated by Justice V.R.Krishna Iyer. Hence, this Court is now duty bound to consider the above two applications.

M.P.(MD)No.1 of 2013:

30. The above application has been filed under Order 22 Rule 10 C.P.C., for impleading a third party.

31. A third party to the above proceedings has filed the above application by alleging that during the pendency of the appeal he had purchased the properties from defendants 2 and 3 under a sale deed dated 11.01.2012, through their power of attorney Jeyaraj. Jeyaraj was bestowed with the power by defendants 2 and 3 by a Power of Attorney deed dated 27.12.2011. As the petitioner / third party is now in possession, sought to implead himself as 4th appellant.



REV.APLC(MD)Nos.124 and 138 of 2022

WEB COPY

32. As already pointed out, defendants 2 and 3 have purchased part of the suit property during the pendency of the suit. Admittedly, pending appeal, the applicant has purchased that part of the suit property from the defendants 2 and 3. Considering the above, the doctrine of lis pendens contemplated under Section 52 of the Transfer of Property Act squarely applies to the present facts. It is settled law that any transfer / dealing made during the pendency of a litigation in respect of the property in dispute, the transferee will be bound by the result of the suit or proceedings. Hence, absolutely there is no need or necessity to implead the applicant / proposed appellant and the said application is liable to be dismissed.

C.M.P.(MD)No.1048 of 2018:

33. The above application has been filed by the appellants under Order 41 Rule 27 C.P.C., for reception of additional evidence.

34. It is not in dispute and as already pointed out, the appellants have earlier filed a petition in M.P.(MD)No.2 of 2012 for reception of additional evidence Order 41 Rule 27 C.P.C., and the evidence sought to be received is the communication dated 19.01.2012 issued by the



REV.APLC(MD)Nos.124 and 138 of 2022

WEB COPY

Treasury Officer, Kulithalai to prove that the stamp paper in which the suit sale agreement executed was received by the Sub Treasury, Kulithalai from the District Treasury, Karur on 06.09.2007 only and that the stamp paper used for executing the suit sale agreement could not have been purchased on 16.04.2007 and the agreement could not have been executed on the said date.

35. It is evident from the records that the learned Judge of this Court, by specifically observing that the above contention of the appellants cannot be ignored as it goes to the root of the document Ex.A1, ordered to send the matter back to the trial Court so as to enable the appellants to adduce both oral and documentary evidence with regard to the details as stated in Right to Information communication dated 19.01.2012. In pursuance of the said direction, the trial Court had examined the then Assistant Treasury Officer of Kulithalai Treasury as DW3 and exhibited the RTI application, reply received in response to the RTI application and the invoice for the stamp papers as Ex.X5 to Ex.X7 respectively.



REV.APLC(MD)Nos.124 and 138 of 2022

WEB COPY

36. The learned Senior Counsel for the third defendant would contend that during cross-examination of DW3, taking advantage of mentioning the number as AA888511, instead of showing 17 AA888511, had taken a defence that 17AA and AA are different serials and that the RTI reply given under Ex.R6 (Ex.X6) is not applicable to the stamp paper in dispute and that in order to clarify the above doubt and that Ex.X.6 – reply was given only with respect to 17AA888511 shown in Ex.A1, they have applied under RTI Act and obtained answer dated 18.04.2017 from the District Treasury Officer, Karur and also a copy of the invoice for the despatch of non-judicial stamp from the District Treasury, Karur, dated 03.07.2017 and that the said documents are to be received as additional evidence.

37. It is pertinent to note that the plaintiff has disputed neither the genuineness nor the contents of the documents filed along with the above application. The first document sought to be received is the reply sent by the Public Information Officer, District Treasury Office, Karur, in response to the application under RTI Act and the second document is the attested true copy of the invoice for the despatch of non-judicial stamp to



REV.APLC(MD)Nos.124 and 138 of 2022

the Treasury office, Karur issued by the Treasury Officer, District Treasury, Karur.

WEB COPY

38. As already pointed out, the defendants have produced the reply received from the Sub-Treasury, Kulithalai in response to the RTI application and the invoice of the despatch of non-judicial stamps, court copies stamps to Sub-Treasury, Kulithalai from the District Treasury, Karur and the same came to be exhibited through DW3 and as rightly contended by the learned Counsel for the defendants, in continuance of the said documents and in order to confirm the stand taken by them and to clarify the issue created during the cross-examination of DW3, the above documents are necessary. Considering the above, this Court is of a clear view that for arriving at a just decision in the case on hand, the documents produced along with the above application are necessary and the same are to be received as additional evidence.

39. As rightly contended by the learned counsel for the defendants, there is no need to examine any witness for marking the above documents and the same can be exhibited as Ex.X8 and Ex.X9 respectively.



REV.APLC(MD)Nos.124 and 138 of 2022

WEB COPY

40. As already pointed out, the defendants have raised the following two points/aspects and according to them, when considering those two aspects, which are patent mistakes, error apparent on the face of the impugned judgment, instead of invoking appellate jurisdiction, the defendants 1 and 3 have filed the present review petitions.

(i) The suit sale agreement Ex.A1 is a forged and fabricated document.

(ii) The first defendant has no absolute title over the suit property.

41. Turning to the first point, it is the specific defence of the defendants that Ex.A1 sale agreement is a forged and fabricated document. Since the first defendant has specifically disputed his signature found in Ex.A1, he has applied twice, to send the disputed signature to an expert for his opinion.

42. No doubt, the report received from the private expert at the first instance and the second report from the document Division of the Forensic Science Department, Madurai, was to the effect that the signatures found in Ex.A1 were that of the first defendant.



REV.APLC(MD)Nos.124 and 138 of 2022

WEB COPY

43. As rightly contended by the learned counsel for the first defendant, the report of the expert is only an opinion of the expert and is not decisive. The main contention of the defendants is that though the suit sale agreement Ex.A1 was alleged to have been entered into between the parties on 16.04.2007, the stamp paper used for executing Ex.A1 sale agreement has been received by the Kulithalai Sub Treasury from the Karur District Treasury on 06.09.2007 only and the possibility of handling the stamp papers in which Ex.A1 agreement is written, either by the scribe or by the signatories or by the attesting witness on 16.04.2007 is naught.

44. In order to prove the said contention, the defendants have summoned and examined Sundarrajan, Assistant Treasury Officer, Kulithalai as DW3 and exhibited three documents Ex.X5 to Ex.X7. It is necessary to refer the following passages in the impugned judgment, which deals with the above contention of the defendants.

“14. The point of objection by the 1st appellant/1st defendant is that the stamp papers, in which the alleged sale agreement was executed is also not a genuine one. The property is situated in Karur Village, but the stamp papers



REV.APLC(MD)Nos.124 and 138 of 2022

WEB COPY

were purchased from Kulithalai. The purchase of stamp papers create doubt. In support of his contention, the learned counsel appearing for the appellants/defendants has relied upon a judgment delivered by this Court in AS(MDNo. 1128 of 2007.

But, it cannot be held as suspicious as the sole ground. As per Right of Information Act, 2005, the stamp papers were issued to and purchased from Sub-Treasury, Kulithalai, on 06.09.2007. The Treasury Officer, Karur, was examined as D.W.3. But, there is no document was produced to prove the contention.

Further, the 1st appellant/1st defendant has not raised these points in his written statement at earlier stage. He has not pleaded that the stamp papers are fabricated one. The D.W.3 has also not stated anything about that the stamp papers are fabricated one.”

(emphasis supplied)

45. No doubt, as rightly observed in the impugned judgment, the first defendant has not raised the above point in his written statement. It is pertinent to note that the above additional evidence of DW3 and Ex.X5 to Ex.X7 came into existence, in pursuance of the order of this Court passed in M.P.(MD)No.2 of 2012, wherein this Court directed the trial Court to record the evidence to be adduced by the appellants with regard to the details as stated in the communication dated 19.01.2012 received under the RTI Act. It is further evident from the records that the plaintiff



REV.APLC(MD)Nos.124 and 138 of 2022

WEB COPY

has challenged the order of this Court passed in M.P.(MD)No.2 of 2012 before the Hon'ble Supreme Court and SLP was dismissed.

46. DW3 Assistant Treasury Officer, Kulithalai in his evidence would say that Ex.A1 stamp paper was received by Kulithalai Sub Treasury from the Karur District Treasury on 06.09.2007. It is evident from Ex.X5 and Ex.X6 that in response to the RTI application with regard to the stamp Paper No.17AA888511, the Public Information Officer of the Sub Treasury, Kulithalai, has sent a reply dated 19.01.2012, wherein it has been stated that the Stamp Paper No. 17AA888511 was received from Karur District Treasury by the Sub Treasury, Kulithalai on 06.09.2007.

47. Ex.X7 is the invoice of the despatch of Non-Judicial Stamp and Court copies stamps to Sub Treasury, Kulithalai from the District Treasury, Karur, dated 06.09.2007, where in has been shown that Rs.20 Non Judicial Stamp Papers bearing Nos.AA88 0001 to AAA900000 and other papers were despatched on 06.09.2007 and the same were received on 07.09.2007, as evident from the acknowledgement recorded therein.



REV.APLC(MD)Nos.124 and 138 of 2022

WEB COPY

48. As already pointed out, during cross examination of DW3, it was suggested on the side of the plaintiff that 17AA888511 is different from the serial shown as AA880001 to AA900000 in Ex.X7 invoice. In Ex.X 8 reply sent by the Public Information Officer/District Treasury Officer, Karur in response to the RTI application, it has been specifically stated that Non Judicial Stamp Paper of Rs.20/- denomination bearing No.17AA888511 was received by the District Treasury on 03.07.2007 from District Treasury, Trichy and that the said Stamp Paper was sent to Sub Treasury, Kulithalai on 06.09.2007. Ex.X9 is the invoice for the despatch of Non Judicial Stamp to District Treasury, Karur from District Treasury, Tiruchirappalli, wherein it has been shown that Non Judicial Stamp Paper of Rs.20/- denomination bearing Nos. 17AA845001 to 19AA920000 was dispatched to the District Treasury, Kaur, dated 03.07.2007.

49. Considering the evidence of DW3 along with Ex.X5 to Ex.X9, it is apparent that the Non Judicial Stamp Paper of Rs.20/- denomination bearing No.17AA888511 was sent by the District Treasury, Trichy to the District Treasury, Karur on 03.07.2007, and in turn sent to the Sub Treasury, Kulithalai on 06.09.2007. When the Stamp Paper bearing No.



REV.APLC(MD)Nos.124 and 138 of 2022

WEB COPY

17AA888511 has not come out of the District Treasury, Trichy / District Treasury, Karur/ Sub Treasury, Kulithalai on 06.04.2007, the possibility of executing the sale agreement on the alleged stamp Paper is out of question.

50. As rightly contended by the learned counsel for the defendants, when the evidence in the form of deposition (DW3) and Ex.X5 to Ex.X7 were very much available, the observation that no document was produced to prove the said contention can only be taken as a patent mistake or error apparent on the face of the judgment. The defendants have questioned the agreement, pleaded that it is a forged and fabricated document. Though the question of forgery has been opined by the expert, fabrication means the process of making up something to deceive, herein. In order to prove the falsely made up claim, on the basis of the sale agreement Ex.A.1, the defendants went upto the extent of summoning the Assistant Treasury Officer, examining him as D.W.3 and exhibit documens. This, in specific was not deliberated upon by the Judge in the impugned judgment, nor any reason assigned for non considering or rejecting the evidence placed before it. This indeed amounts to a 'patent' error apparant on the face of the judgment. When it was explicit



REV.APLC(MD)Nos.124 and 138 of 2022

manifest, this Court too cannot turn a blind eye. Hence, this Court has no hesitation to hold that the defendants through unimpeachable evidence proved that Ex.A1 sale agreement is indeed a fabricated and fraudulent document.

51. At this juncture, it is necessary to refer the judgment of the Hon'ble Apex Court in ***S.P Chengalvaraya Naidu (dead) and Others vs Jagannath (dead) by L.Rs., and others*** reported in ***1994 AIR 853*** and the relevant passage is extracted hereunder:

“The High Court, in our view, fell into patent error. The short question before the High Court was whether in the facts and circumstances of this case, Jagannath obtained the preliminary decree by playing fraud on the court. The High Court, however, went haywire and made observations which are wholly perverse. We do not agree with the High Court that "there is no legal duty cast upon the plaintiff to come to court with a true case and prove it by true evidence". The principle of "finality of litigation" cannot be pressed to the extent of such an absurdity that it becomes an engine of fraud in the hands of dishonest litigants. The courts of law are meant for imparting justice between the parties. One who comes to the court, must come with clean hands. We are constrained to say that more often than not,



WEB COPY



REV.APLC(MD)Nos.124 and 138 of 2022

process of the court is being abused. Property-grabbers, tax-evaders, bank-loan-dodgers and other unscrupulous persons from all walks of life find the court-process a convenient lever to retain the illegal-gains indefinitely. We have no hesitation to say that a person, who's case is based on falsehood, has no right to approach the court. He can be summarily thrown out at any stage of the litigation.”

52. Now turning to the second point, whether the first defendant has absolute title over the suit property, the plaintiff, in specific alleging that the suit property absolutely belongs to the first defendant had laid the suit against him alone initially, for the relief of specific performance. As already pointed out, it is the specific defence of the first defendant that the suit properties are the ancestral properties of the first defendant and his two sisters, namely Pappathi and Saraswathi and he cannot execute the suit sale agreement independently.

53. In para 6 of the written statement, the first defendant has specifically pleaded that due to the close acquaintance of the plaintiff for around 2 decades with the first defendant, the nature of property to be sold was within the knowledge of the plaintiff, he was fully aware that



REV.APLC(MD)Nos.124 and 138 of 2022

the first defendant and his two sisters had equal moiety in the suit properties. In para No.10 of the written statement, it has been pleaded that the plaintiff is a greedy person, in order to snatch away the suit property, which belongs to this defendant and his sisters, had concocted, created and forged the sale agreement, dated 16.04.2007. In para 16 of the written statement, the first defendant has further stated that he owned ancestral properties including the suit property and had dealt with some along with his two sisters, which too is to the knowledge of the plaintiff.

54. It is pertinent to note that the plaintiff in his cross examination would specifically admit that the first defendant is having two sisters and a daughter and the relevant portion is extracted herein.

“ எனக்கும், 1ம் பிரதிவாதிக்கும் கமார் 18 வருடமாக பழக்கம், எனவ 1ம் பிரதிவாதியின் குடும்பத்தை பற்றி எனக்கு தெரியும் என்றால் சரிதான். 1ம் பிரதிவாதிக்கு ரேண்டு சுகாதாரிகள் உள்ளனர் என்றால் சரிதான். 1ம் பிரதிவாதிக்கு ஒரு பெண் உள்ளார் என்றால் சரிதான். சில சொத்துக்கள் பூர்வீக சொத்துக்கள் சில சொத்துக்கள் 1வது பிரதிவாதியால் கிரயம் பெறப்பட்டவை என்றால் சரிதான்....”

55. Most importantly, the plaintiff would admit that some of the



REV.APLC(MD)Nos.124 and 138 of 2022

properties are the ancestral properties and some other properties were purchased by the first defendant. In subsequent cross examination, P.W.1 would depose,

“”1ம் பிரதிவாதியை அல்லாமல் அவரின் சுகாதாரிகளுக்கும், 1ம் பிரதிவாதியின் மகளுக்கும் தாவா சொத்தில் உரிமை உண்டு என்றும் அவர்கள் தரப்பினர்கள் லேலாததால் தாவா ஏற்கத்தக்கதல்ல என்றால் சரியல்ல.....

நான் கிரைய ஒப்பந்தம் ஏற்படுத்திக்கொண்டது 1ம் பிரதிவாதியின் சுகாதாரி,இ மகளுக்கு மற்றும் எட்களது உறவினர்களுக்கும் நண்பர்களுக்கும் கிரைய சொத்து உள்ள பகுதியில் உள்ளவர்களுக்கும் தெரியும். சுகாதாரிகளிடம் தான் அனுமதி பெற்றுள்ளதாகவும் 1ம் பிரதிவாதி சொல்லியதால் அவர்கள் ஒப்பந்தத்தில் தரப்பினராக ஁சர்க்கப்படவில்லை. ஁மனும் தன்னுடைய மகளிடமும் அதிகாரப் பத்திரம் பெற்றதாக சொன்னார். அந்த அதிகாரப் பத்திரத்தை நான் பார்க்கவில்லை. கிரைய ஒப்பந்தப் பத்திரத்தில் சுகாதாரிகள் கொடுக்கப்பட்ட அதிகாரப்பத்திரத்தை நான் ஁நரில் பார்க்கவில்லை. கிரைய ஒப்பந்தப் பத்திரத்தில் அதிகார பத்திரத்தின் தகவல் தெரிவிக்கப்படவில்லை.

1ம் பிரதிவாதியின் சுகாதாரிகளுக்கு உரிமை உள்ளதால் அதை 2இ, 3 பிரதிவாதிகள் அவர்களுடைய உரிமைக்கு கிரையம் பெற்றார்கள் என்றால் சரியல்ல. 1ம் பிரதிவாதி என்னிடம் தன் சுகாதாரிகள் சொத்தின் உரிமையை விடுவித்துவிட்டதாக என்னிடம்



REV.APLC(MD)Nos.124 and 138 of 2022

WEB COPY

கூற்றினார்.”””

56. Considering the above, the plaintiff himself has categorically admitted to the nature of the suit properties, some are ancestral and some were purchased by the first defendant, as well to the presence of two sisters and a daughter of the first defendant.

57. As rightly contended by the learned counsel for the defendants at one point, the plaintiff would say that the first defendant had informed him that he had obtained a release / permission from his sisters and hence, they were not added as parties to the sale agreement and that the first defendant had also informed that he had obtained power of attorney from his daughter. But, admittedly, the recitals of the suit sale agreement does not refer / reveal any permission alleged to have been obtained by the first defendant from his sisters nor about the power of attorney executed by his daughter to him. But, in subsequent cross examination, the plaintiff would say that he came to know from the first defendant that his sisters had relinquished their share in the suit property.

58. It is the specific case of the defendants that during the



REV.APLC(MD)Nos.124 and 138 of 2022

pendency of the suit, the first defendant for himself and as power agent of his daughter along with his two sisters had executed a sale deed in respect of some of the suit properties in favour of the defendants 2 and 3 vide sale deed, dated 03.03.2009.

59. As rightly contended by the learned counsel for the defendants, in the impugned judgment, it has been observed that no document was filed to prove the factum that the suit properties are the ancestral properties, in which, the first defendant's sisters are having a share and the relevant passage is :

“17. The next point is that the suit property is the common ancestral property. Though, the 1st appellant/1st defendant and his sister also having shares in the said

common ancestral property, no document was filed to prove the said fact. As per the sale agreement, the property is belonged to him. So this contention is also cannot be looked into.”

(emphasis supplied)

60. Admittedly, the first defendant has produced the partition deed entered into between Chenni Malai Gounder and Subbaraya Gounder (father of the first defendant), dated 20.05.1948 and the sale deeds dated 01.07.1965 and 06.10.1977 standing in favour of the said Subbaraya



REV.APLC(MD)Nos.124 and 138 of 2022

WEB COPY

Gounder as Ex.B6 to Ex.B8 respectively. It is evident from Ex.B4 the first defendant and his two sisters Papathi and Saraswathi are shown as legal heirs of the deceased Subbaraya Gounder.

61. The learned counsel for the first defendant would contend that in Ex.B6 partition, Subbaraya Gounder was allotted with 30.99 acres of land, under Ex.B7 and Ex.B8 he purchased 1.08 $\frac{1}{18}$ acres of land each in the two sale deeds, totally he owned 33.15 $\frac{1}{4}$ acres. The first defendant and his sisters have already sold 7.50 acres and 2.06 $\frac{1}{4}$ vide sale deeds dated 01.11.2006 and 07.03.2007 and after deducting the said extent, the first defendant and his sisters have 23.56 acres of land. But, in Ex.A1 sale agreement, it has been shown that the first defendant has agreed to sell 25.87 $\frac{1}{4}$ acres of land.

62. No doubt, the first defendant has not produced the sale deed, dated 01.11.2006 and 07.03.2007. Irrespective of the said non-submission of the sale deeds, considering the Ex.B4 and Ex.B6 to Ex.B8, it is obvious that the first defendant and his sisters do have ancestral properties. Even assuming for the sake of arguments, the properties purchased by Subbaraya Gounder under Ex.B7 and Ex.B8 are the



REV.APLC(MD)Nos.124 and 138 of 2022

separate properties, Subbaraya Gounder having died intestate, his son and daughters, as per Sec.8 of Hindu Succession Act, are each entitled to 1/3 share.

63. At this juncture, it is necessary to refer the judgment of Hon'ble Supreme Court in ***Pemmada Prabhakar & Others Vs Youngmen'S Vysya Association and others*** reported in ***2015 3 CTC 2029***, wherein Apex Court has held that the agreement of sale executed by some of the defendants, who have no absolute right to property in question cannot confer any right whatsoever upon the plaintiffs for grant of decree of specific performance of Agreement of Sale in their favour and the relevant passages are extracted hereunder :

*“29. It is an undisputed fact that the suit schedule property is self acquired property by late Pemmada Venkateswara Rao as he had purchased the said property vide Sale-Deed Document No.5174 of 1970 dated 24.11.1970 from his vendors. It is also an undisputed fact that the said property is intestate property. He is survived by his wife, 3 sons and 3 daughters. The said property devolved upon them in view of Section 8 of Chapter 2 of the **Hindu Succession Act** as the defendants are class I legal heirs in the suit schedule property. Undisputedly, the Agreement of Sale- Ex.-A1 is*



WEB COPY



REV.APLC(MD)Nos.124 and 138 of 2022

executed only by defendant Nos. 1 and 2. The 3rd son, mother and 3 sisters who have got equal shares in the property have not executed the Agreement of Sale. In view of the matter, the Agreement of Sale executed by defendant Nos. 1 and 2 who have no absolute right to property in question cannot confer any right whatsoever upon the plaintiffs for grant of decree of specific performance of Agreement of Sale in their favour. The said agreement is not enforceable in law in view of [Section 17](#) of the Specific Relief Act in view of right accrued in favour of defendant Nos. 3 to 6 under [Section 8](#) of the Hindu Succession Act. The provisions of [Section 17](#) of the Specific Relief Act in categorical term expressly state that a Contract to sell or let any immovable property cannot be specifically enforced in favour of a vendor or lessor who does not have absolute title and right upon the party. It is worthwhile to extract [Section 17](#) of the Specific Relief Act, 1963 here :-

“17.-Contract to sell or let property by one who has no title, not specifically enforceable.- A contract to sell or let any immovable property cannot be specifically enforced in favour of a vendor or lessor; who, knowing not to have any title to the property, has contracted to sell or let the property who, though he entered into the contract believing that he had a good title to the property, cannot at the time fixed by the parties or by the court for the completion of the sale or letting, give the purchaser or lessee a title free from



REV.APLC(MD)Nos.124 and 138 of 2022

reasonable doubt.” In view of the aforesaid provisions of the Specific Relief Act, the Agreement of Sale entered between the plaintiffs and some of the co-sharers who do not have the absolute title to the suit schedule property is not enforceable in law. This aspect of the matter has not been properly appreciated and considered by both the First Appellate Court and the Second Appellate Court. Therefore, the impugned judgment is vitiated in law.

30. Even assuming for the sake of argument that the agreement is valid, the names of three sons are mentioned in Agreement of Sale, out of whom the agreement is executed by defendant Nos. 1 and 2 and they assured that they would get the signatures of the 3rd brother namely, Srinivasa Rao and also the remaining 3 sisters. At the time of execution of this agreement signatures were not obtained. Therefore, the agreement is not executed by all the co-sharers of the property which fact is evident from the recitals of the document itself. Hence, the plaintiffs are not entitled for specific performance decree. This vital factual and legal aspect has been ignored by both the First Appellate Court and the Second Appellate Court. Therefore, the impugned judgment is vitiated both on facts and law. Accordingly, the point No. 1 is answered in favour of the defendants.”

64. Considering the above, the first defendant, who is not having



REV.APLC(MD)Nos.124 and 138 of 2022

absolute right to the suit properties cannot confer any right on the plaintiff as the sisters and the daughter of the first defendant are having shares in the suit properties. No doubt, it can also be stated that the suit sale agreement can be pressed into service so far as the first defendant's share is concerned and the plaintiff can be given a decree for specific performance with respect to the share of the first defendant in the suit properties.

65. In the present case, as already pointed out, the plaintiff has disputed the nature of the property. Moreover, other sharers, namely the sisters of the first defendant and his daughter are not parties in the present suit. When the share of the first defendant cannot be ascertained as of now, and which is not the plea or stand of the plaintiff, nor his relief, the question of upholding the validity of the sale agreement in respect of the first defendant's share does not arise and in continuance, the plaintiff too cannot and is not entitled to the relief of specific performance.

66. Considering the above, this Court has no other option but to concur and hold the above two points/aspects canvassed by the defendants, in their favour. The points raised indeed goes to the root of



REV.APLC(MD)Nos.124 and 138 of 2022

WEB COPY

the suit, the sale agreement Ex.A1 and the defendants have clearly established that ExA1 is a fabricated and fraudulent document. Necessarily the result is obvious, the impugned judgment dated 04.02.2022 and the judgment of the trial Court are liable to be set aside. As this Court has specifically given a finding that Ex.A1 is proved to be a fabricated document, the question of granting the alternative relief of refund of advance does not arise. Considering the fact that the suit came to be filed on the basis of a fabricated and fraudulent document, this Court is of the view that the plaintiff must be mulcted with costs of the review petitioners/defendants 1 and 3 throughout. In conclusion, the review petitions stand to be allowed.

67. In result, both the Review Petitions are allowed. The judgment dated 04.02.2022 passed in A.S(MD)No.17 of 2012 and the judgment of the trial Court in O.S. No.6 / 2009 dated 19.11.2011 are set aside. The suit in O.S.No.6 of 2009 stands dismissed. M.P.(MD)No. 1 of 2013 is dismissed. C.M.P. (MD)No.10408 of 2018, is allowed and other Miscellaneous Petitions are closed. Consequently, the connected C.M.P. (MD)Nos.7959 and 9683 of 2022 are also closed. The plaintiff is directed to pay costs to the review petitioners/defendants 1 and 3 throughout.



REV.APLC(MD)Nos.124 and 138 of 2022

WEB COPY

28.03.2023

Index : Yes : No

Internet : Yes : No

SSL/DAS

List of witness examined and documents exhibited
in pursuance of the directions of this Court, vide order
dated 29.04.2016 in M.P.(MD)No.2 of 2012:

- D.W.3 - Assistant Treasury Officer, Kulithalai.
- Ex.X.5 - Application filed under RTI Act, dated 12.01.2012.
- Ex.X.6 - Reply sent by the Sub-Treasury Officer, in response to the RTI application, dated 19.01.2012.
- Ex.X.7 - Copy of invoice for the despatch of non-judicial stamps, to the Sub-Treasury, Kulithalai from the District Treasury, Karur.

List of documents received and exhibited as per the
order passed in C.M.P.(MD)No.10408 of 2018:

- Ex.X.8 - The answer given by the Public Information Officer, District Treasury Office, Karur, dated 18.04.2017.
- Ex.X.9 - Invoice for the despatch of Non-Judicial stamp to District Treasury, Karur, dated 03.07.2017.



WEB COPY



REV.APLC(MD)Nos.124 and 138 of 2022

K.MURALI SHANKAR,J.

SSL/DAS

PRE-DELIVERY JUDGMENT MADE IN

REV.APLC(MD)Nos.124 and 138 of 2022

28.03.2023