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REV.APPL No. 252 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-08-2026

CORAM

THE HON'BLE MR JUSTICE N. SATHISH KUMAR

AND

THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

REV.APPL No. 252 of 2024

R.Pushpalatha

..Petitioner(s)

Vs

1. R.Eswaramurthy
2. M.Rajamanickam (died)
3. R.Thiagarajan (died)
4. R.Saravanan
5. R.Saroja
6. Divyapriya
7. Sharanya
8. S.Poongothai
9. Iswarya
- 10.Sushmitha

[R3 died, R5 (already on record) is recorded as LR of deceased R3; R8 to R10 are brought on record as LRs of deceased R3 vide order of Court dated 29.07.2024 made in C.M.P.No.15622 of 2024 in Rev.Appl.SR.No.19013 of 2019]



[R2 died, his legal heirs are already on record as respondents 1, 3, 4, 5 and the review applicant; recorded vide this order dated 06.08.2026 in Rev.Appl.No.252 of 2024]

..Respondent(s)

Review Application filed under Section 114 read with Order XLVII Rules 1 and 2 of the Code of Civil Procedure to review the judgement and decree dated 27-11-2017 in A.S.No.1209/2015 on the file of the Honble High Court.

For Petitioner(s): Mr.T.R.Rajaraman
for M/s.P.Veena Suresh

For Respondent(s): Mr.K.Chandrasekaran
for R6 and R7

No appearance for R1 to R5

ORDER

(Order of the Court was made by N.Sathish Kumar J.)

This Review Application has been filed to review the judgment and decree of this Court passed in A.S.No.1209 of 2015, dated 27.11.2017.

2.For the sake of convenience, the parties shall be referred to as per their rank before the trial Court.



3.Originally, the suit in O.S.No.19 of 2012 has been filed by the respondents 6 and 7/plaintiffs before the III Additional District Court, Salem, seeking 2/15 share in respect of all the three items of suit properties. The trial Court, by its judgment and decree dated 24.08.2015, granted a preliminary decree allotting 1/12 share each to the plaintiffs. Aggrieved over the same, the defendants in the suit filed an Appeal before this Court in A.S.No.1209 of 2015. This Court, by judgment and decree dated 27.11.2017, modified the judgment and decree of the trial Court to the extent that the plaintiffs are each entitled to 1/12 share in the suit properties except first item of suit third schedule and accordingly, passed a preliminary decree without costs.

4.Now, the 5th defendant in the suit, who is the daughter of the 2nd defendant Rajamanickam, has taken out this Review Application on the sole ground that the trial Court, in its judgment and decree dated 24.08.2015, has rendered a finding to the effect that, since the grandfather of the 5th defendant, namely Mariappa Gounder, died even before the commencement of the Hindu Succession (Amendment) Act, 2005, the 5th defendant is not entitled to any share. However, this aspect has not been gone into by the Appellate Court and it has considered only the shares of the plaintiffs.

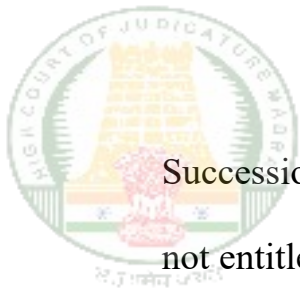


5. According to the learned counsel for the review applicant/5th defendant, the 5th defendant, who is also a coparcener along with her father 2nd defendant, is entitled to a share in the suit properties along with other coparceners.

6. Heard the learned counsel on either side and perused the entire materials available on record.

7. The suit has been originally filed by the plaintiffs who are the daughters of the 1st defendant in the suit, namely Eswaramoorthy. The 2nd defendant is the grandfather of the plaintiffs. The 6th defendant is the grandmother of the plaintiffs. The defendants 3 and 4 are the brothers of the 1st defendant and sons of the defendants 2 and 6. The 5th defendant is the sister of the 1st defendant and daughter of the defendants 2 and 6. According to the plaint, the entire suit properties are ancestral properties. Therefore, the plaintiffs, being the coparceners are entitled to share along with their father. Even in Para No.10 of the plaint, it is clearly admitted by the plaintiffs that the defendants 2 to 5 are also entitled to 3/15 share in the suit properties.

8. When the character of the properties is not in dispute, the trial Court has held that, since the grandfather of the defendants 1, 3, 4 and 5 Mariappa Gounder died in the year 1993 even before the commencement of the Hindu



Succession (Amendment) Act, 2005, the 5th defendant, being a female heir, is not entitled to any share. However, the Appellate Court has not noticed the said finding of the trial Court.

9. We have perused the judgments of both the trial Court as well as the Appellate Court. As rightly pointed by the learned counsel for the review applicant, we are of the view that there is an error apparent on the face of the record for the simple reason that this Court, as Appellate Court, has not gone into the finding of the trial Court negating the relief to the 5th defendant. Admittedly, the trial Court and the Appellate Court have held that the properties are joint family properties. Such being the position, the 5th defendant/review applicant, being one of the daughter born to the 2nd defendant, also became coparcener along with her father by virtue of Hindu Succession (Amendment) Act, 2005 (Act 39 of 2005) with effect from 09.09.2005. However, without taking note of this aspect, the trial Court, on a wrong notion, has negated the relief to the 5th defendant. Though the 5th defendant is also an appellant in the Appeal which is the subject matter of this review, the Appellate Court, though found that except the first item of the third schedule, all others are ancestral properties, modified the shares only in respect of the plaintiffs, but has not taken note of the finding of the trial Court negating the share of the 5th defendant in the ancestral properties. Therefore, it is clearly an error apparent on the face of the record.



10.Hence, we hold that the review applicant/5th defendant, being one of the coparceners along with her father 2nd defendant, is also entitled to share in the suit properties except the first item of the third schedule.

11.Now, it is submitted by the learned counsel for the review applicant that the 2nd defendant/2nd respondent has also died during the pendency of this review application and his legal heirs are already on record as respondents 1, 3, 4, 5 and the review petitioner. The said submission is recorded. In such view of the matter, the parties are entitled to their shares as follows :

<i>Rank in the suit</i>	<i>Rank in the Review Petition</i>	<i>Share</i>
1 st plaintiff	6 th respondent	6/75
2 nd plaintiff	7 th respondent	6/75
1 st defendant	1 st respondent	6/75
2 nd defendant	2 nd respondent	died
3 rd defendant	3 rd respondent	died
4 th defendant	4 th respondent	6/25 = 18/75
5 th defendant	Review Petitioner	6/25 = 18/75
6 th defendant	5 th respondent	1/25 = 3/75
Legal heirs of 3 rd defendant (deceased)	8 th respondent	6/75
	9 th respondent	6/75
	10 th respondent	6/75



12. Accordingly, this Review Application is allowed and the aforesaid allotment can be made in the final decree proceedings on payment of necessary Court fees by the respective parties. No costs.

(N.S.K.,J.) (M.J.R.,J.)
06-08-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

MKN

To

The III Additional District Judge,
Salem.



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**N.SATHISH KUMAR J.
AND
M.JOTHIRAMAN J.**

MKN

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