



WEB COPY

REV.APPL No. 133 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 22.06.2026

Pronounced on : 08.07.2026

CORAM

THE HON'BLE MS. JUSTICE P.T. ASHA

REV.APPL No. 133 of 2023

AND

CMP No.16501 OF 2024

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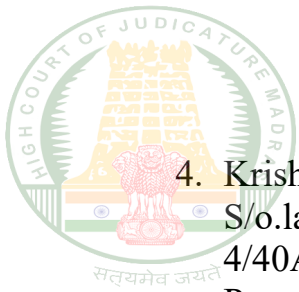
CMP NO. 1054 OF 2025

M.Pazhani
S/o.K.S.Muthuswamy Gounder
Kullanur Village
Dharmapuri.

..Petitioner

Vs

1. Santha
W/o.Vetrivel
No.259, Kaliamman Koil Street
Annathanapatti
Valluvar Nagar
Salem Town.
2. Saroja
W/o.Shanmugam
Pudhur Agraharam Munniappan Koil Forest,
Kondam Patti Post,
Salem 10.
3. Angamma
W/o.late Kuppusamy
4/40A, Military Kottai,
Karagatha Halli Village
Penarahalli Post, Palakadu
Dharmapuri Dist.



4. Krishnan
S/o.late Kuppusamy
4/40A, Military Kottai, Karagatha Halli Village
Penarahalli Post
Palakadu
Dharmapuri Dist.

5. Santhi
W/o.late Pazhani,
Kathankulam Village
Pappireddi Taluk
Dharmapuri District.

6. Leka
D/o.late Pazhani
Kathankulam Village
Pappireddi Taluk
Dharmapuri District.

..Respondents

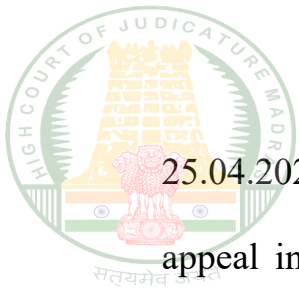
PRAYER : Review Application filed under Order 47 Rules 1 & 2 read with Section 14 of the Code of Civil Procedure, praying to review the judgment dated 25.04.2023 in SA.No. 1199 of 2004.

For Applicant: Mr.Arun Anbumani

For Respondents: Mr.M. Thamizhavel for R1
R5 & R6 – Served [No appearance]
R2 to R4 – Not ready in notice

ORDER

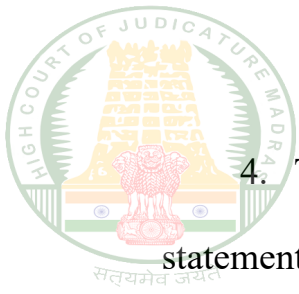
The plaintiff in O.S.No.137/1991 on the file of District Munsif Court, Dharmapuri is the review applicant herein, who had filed the above application to review the judgment and decree passed in S.A.No.1199 of 2004 dated



25.04.2023. This Court by order dated 25.04.2023, had allowed the second appeal in S.A.1199 of 2004, preferred by one Santha, the 11th respondent in A.S.6 of 1999 on the file of Sub Court, Dharmapuri, in and by which, this Court had allowed the second appeal by reversing the judgment in first appeal.

2. The suit in O.S.No.137 of 1991 has been filed for a declaration and injunction in respect of the properties measuring an extent of 0.15.5 hectares (38 ½ cents) in Survey No.401/3B and 0.12.5 hectares (30½ cents) in Suvey No.406/2B in Old Patta No.206, New Patta No.705 of Virupatchipuram Village, Dharmapuri District.

3. The case of the plaintiff is that the suit properties belongs to him, he having got it under a family arrangement with his father 8 years prior to the filing of the suit. He would submit that since then he has been in possession and enjoyment of the same and that for over 40 years he and his father have enjoyed the same. It is his further case that the patta has been mutated in his name and he has been allotted Patta No.708. The plaintiff would submit that the defendants who have no right or interest in the suit properties, have been constantly interfering with his possession and enjoyment of the same and the last of such attempts was on 23.03.1991 and therefore, he has come forward with the aforesaid suit.



4. The 2nd defendant who is the son of 1st defendant had filed a written statement in the suit, inter-alia denying the allegations contained in the plaint.

It was the specific case of the 2nd defendant that besides S.Nos.401 and 406, there were other properties that belonged to his father, the 1st defendant. It is his contention that a registered partition was entered into between his father and the plaintiff's father in the year 1956, under which, the 1st defendant, his father was allotted a share in S.No.406 and the other half share fell to the share of the plaintiff's father. In Survey Number 401, no share had been allotted to the plaintiff's father. S.Nos.401 and 406 comprises of a larger extent. The suit property has not been specifically demarcated with boundaries. The plaintiff ought to have taken out an application for appointing an Advocate Commissioner to identify the property. He would submit that the property comprised in Survey No.401, measured an extent of 3.62 acres, and the 1st defendant was allotted 2/3rd share in the same. The Survey No.406, measured 1.71 acres, out of which, 80 cents was allotted to his father. The 1st defendant had offered the properties allotted to him as a security for the loan obtained from the Government. A portion of the 1st defendant's property has now been sub divided and re-numbered as S.No.401/3B. A Power deed was given to one Parameswari in respect of S.No.401/3B and its possession and management was also handed over to her. Similarly, S.No.406/2B, was sold to Santha, the first respondent / appellant in S.A., and to other parties. Though the plaintiff was aware that the property had been sold to Santha and also to Mani @

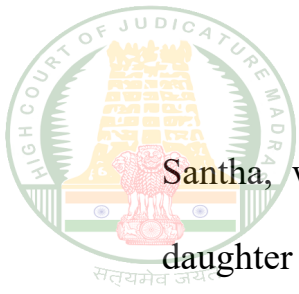


Subramani, Kandasamy and Shanthi, the plaintiff did not make them as a party to the proceedings. Therefore, the 2nd defendant would plead that the suit is

barred on the ground of non-joinder of necessary parties. That apart, it is the contention of the defendant that the plaintiff is claiming a right to the property in which his father himself had no right. The property had been sold by the 1st defendant to Mani @ Subramani, Kandasamy and Santha, who are not impleaded as parties to the proceedings. The defendants would submit that the 1st defendant has acted as per the terms of partition deed dated 19.10.1956. However, the same cannot be said with regard to the plaintiff's father. Therefore, the defendants sought for dismissal of the suit.

5. The trial Judge on considering the evidence on record and arguments, had come to the conclusion that the plaintiff / review applicant had not proved his case and therefore, the plaintiff was not entitled for a decree of declaration and injunction, and hence, dismissed the suit on 30.01.1996. It is during the trial that the plaintiff had introduced Ext.A17, Exchange Deed. There is no reference to this document either in the pleadings or in the list of documents.

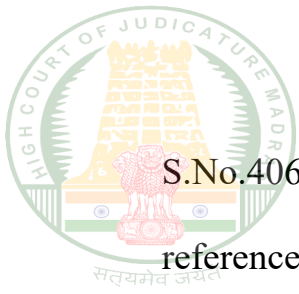
6. Challenging the judgement and decree of the trial Court in O.S.No.137 of 1991, the plaintiff filed the first appeal in A.S.No.6 of 1996 on the file of Sub Court, Dharmapuri. It was only before the first Appellate Court, the said



Santha, was impleaded as 11th respondent. Santha is none other than the daughter of the deceased 2nd defendant. The entire case of the plaintiff/appellant in A.S.6/1996 to claim right to the properties in question was based on Ext.A17, Exchange Deed dated 23.10.1968, which is an unregistered document and Ext.A18, Revenue Record. The Appellate Court on consideration of the evidence, set aside the judgement and decree in O.S.No.137 of 1991, and decreed the suit in favour of the plaintiff/review applicant.

7. Aggrieved by the decree in A.S.No.6 of 1996, the 11th respondent in A.S.No.6 of 1996, viz., Santha, the daughter of the second defendant had filed S.A.No.1199 of 2004. This Court by order dated 25.04.2023 in S.A.No.1199 of 2004, had reversed the judgment and decree of the lower Appellate Court in A.S.No.6 of 1996. This judgment and decree is now sought to be reviewed.

8. The original grounds of review apart from castigating the Court and calling the judgment “preposterous” has not made out any case for a review as a very reading of the grounds would clearly show that the grounds are more in the lines of an appeal against the judgment. Likewise, the additional grounds of review also seeks to challenge the judgment under review and the grounds are made in the lines of a challenge to the judgment. However, during the arguments, the counsel for the review petitioner had pointed out that though the suit had been filed both in respect of the lands in S.No.401/3B and



S.No.406/2B, the judgment under review has not discussed the claim with reference to the S.No.406/2B. This is significant since the appellant / 1st respondent claims a right to S.No.406/2B. The appellant in the second appeal / 1st respondent herein is the purchaser of lands comprised in S.No.406/2B. On a perusal of the judgment under review, the same appears to be correct and therefore, insofar as S.No.406/2B, there is an error apparent on the face of the record.

9. With reference to the judgment relating to S.No.401/3B, there appears to be no error apparent on the face of the record and the grounds raised clearly indicates that the remedy available to the review petitioner is only to take it up by way of a further appeal. The claim of the review petitioner in respect of S.No.401/3B is only on the basis of Ext.A17, Exchange Deed and this has been elaborately discussed in the judgement under review.

10. In fine, the review petition is allowed only with reference to review petitioner/plaintiff's claim in respect of the lands comprised in S.No.406/2B alone. Post the Second Appeal for rehearing before the concerned learned Judge as per roster to consider the appeal only with reference to S.No.406/2B.

11. In the light of the order passed in this review application, this Court is not inclined to entertain C.M.P.No.16501 of 2024 seeking interim stay of the judgment and decree dated 25.04.2023 in S.A.No.1199 of 2004, and is



accordingly dismissed. It is open to the parties to file an application for receiving the additional documents in the Second Appeal. Therefore, C.M.P.No.1054 of 2025, filed to receive the additional documents, stands closed. No costs.

-07-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

DS

To:

1. The Subordinate Judge
Dharmapuri.
2. The District Munsif Court
Dharmapuri.



WEB COPY

REV.APPL No. 133 of 2



P.T.ASHA J.

DS

REV.APPL No. 133 of 2023
AND
CMP No.16501 OF 2024 & CMP NO. 1054 OF 2025

-07-2026