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Rev.Appl.No.138 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.02.2026

PRESENT:

THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE

Rev. Appl.No. 138 of 2025

and

C.M.P.No.19267 of 2025

Thangarasu
Aged 67 years
S/o.Late. Subbaiah
Pottireddipatti Village,
Namakkal Taluk.

... Applicant

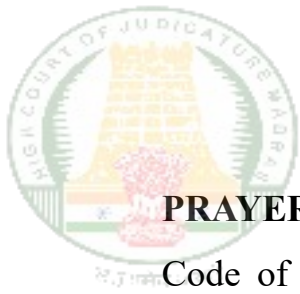
Vs.

1. Murugesan
S/o.Late Subbaiah
Old Address
Pottireddipatti Village,
Namakkal Taluk,
now residing at
D.No.19 B, Kuttaitheru,
Sandaipattipudur, Namakkal Town.

2. Jayamani, Aged 66 years,
W/o.Natesan
Koolipatti Village,
Namakkal District.

3. Rasathi, Aged 63
W/o.Late. Sridhar
Pottireddipatti, Namakkal district.
1/6

... Respondents



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PRAYER in Rev.Appl.: Review Application filed under Order XLVII Rule 1 of Code of Civil Procedure praying to allow the above Review Applicant and set aside the judgment and decree dated 11.12.2024 made in A.S.No.546 of 2019 on the file of this Court and thus render justice.

PRAYER IN C.M.P.: To stay all further proceedings in O.S.No.10 of 2013 on the file of the Additional District Judge, Namakkal pending disposal of the above Review Application in this Court and thus render justice.

For Petitioner : Mr.T.Dhanyakumar

ORDER

Heard.

2. This Review Application is filed under under Order XLVII Rule 1 of Code of Civil Procedure seeking review of the judgment and decree dated 11.12.2024 made in A.S.No.546 of 2019.

3. The dispute arises out of a suit for partition in O.S.No.10 of 2013. The Trial Court decreed the suit and directed division of the suit properties into 24 equal shares, allotting 9 shares to the plaintiff, and passed a preliminary decree. The appeal in A.S.No.546 of 2019 was dismissed, confirming the preliminary decree.



4. The Learned Counsel for the review petitioner submitted that the parties are the children of Subbaiah and Kamatchiammal; Item Nos.1, 2 and 5 are admitted joint family properties, while Item Nos.3 and 4, though standing in his name (purchased under Exs.A2 and A3 in 1983 and 1986), were asserted to be his self-acquisitions and not partible. He also referred to Item No.6 purchased by Kanagaraj (Ex.A10) and Item No.7 purchased by the plaintiff (Ex.A9).

5. He further argued that he was never the karta; the father alone was karta and died in 1998. Hence, the “karta” theory could not be invoked to treat Exs.A2 and A3 purchases as joint family properties, and the burden lay on the plaintiff to prove joint family character. He also disputed the presumption drawn from the existence of a nucleus and the alleged absence of proof of his independent income.

6. On shares, he submitted that the Court erred in paragraph 32 by not granting equal shares, particularly by not properly accounting for the daughters’ entitlement, and sought recomputation on an equal-share basis.

7. The review applicant’s grievance concerns the Court’s finding that Item Nos. 2 and 3 are joint family properties available for partition, and the consequential allotment of shares worked out in paragraph 32 of the judgment. According to the review applicant, Item Nos. 3 and 4 are his self-acquired properties, and he is not



the karta of the joint family; therefore, those properties are not available for partition.

8. However, the Court framed specific points for consideration in the appeal and, on such consideration, concluded that the properties in question are joint family properties amenable to partition. In these circumstances, no apparent or patent error is shown on this aspect so as to warrant review.

9. The next ground urged relates to the quantum of share worked out by the Court in paragraph 32. During arguments, learned counsel contended that the Court failed to follow the recent decision of the Supreme Court, and that this Court omitted to take into account the daughters' entitlement in the joint family property.

10. In the present case, it is not in dispute that Defendant Nos. 2 and 3, the sisters of the plaintiff and the first defendant, were set ex parte. They did not plead or claim that a joint family and coparcenary subsisted with them as on the commencement of the 2005 Amendment Act. On the contrary, the review applicant himself pleaded in the written statement that, in 1998, at the time of the marriage of the third defendant, necessary *sreedhana* was provided by the plaintiff and the first defendant, and that Defendant Nos. 2 and 3 orally relinquished their shares in the suit items at the time of their marriages. He further pleaded that the plaintiff



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and the first defendant each inherited 5/12 shares, and Defendant Nos. 2 and 3 each inherited 1/12 share in the joint family property.

11. Having pleaded that the coparcenary stood disrupted after the death of his father, the review applicant cannot now claim contra to his pleadings.

12. Hence, for the aforesaid reasons the review application is dismissed at the admission stage. Connected Miscellaneous petition is closed. There shall be no order as to costs.

18.02.2026

ay

Index : Yes/No

NCC : Yes/No

Speaking Order / Non-Speaking Order

To

The Additional District Judge,
Namakkal.



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DR. A.D. MARIA CLETE, J

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