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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 04.06.2026

Pronounced on : 31.07.2026

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

C.M.P(MD)No.1704 of 2026
in
REV.APLC(MD)SR.No.109755 of 2025

1.Murugesan (Died)

2. Ramasamy,
S/o.Veerapathira Pillai,
Kalathu Veedu,
M.Ammapatty,
Dindigul District.

3. Ganesan,
S/o.Veerapathira Pillai,
Kalathu Veedu,
M.Ammapatty,
Dindigul District.

4. Thangaraj,
S/o.Veerapathira Pillai,
Kalathu Veedu,
M.Ammapatty,
Dindigul District.

5. Dhanam,
D/o.Veerapathira Pillai,
Kalathu Veedu,
M.Ammapatty,
Dindigul District.

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6. Rajendran,
S/o.Veerapathira Pillai,
Kalathu Veedu,
M.Ammapatty,
Dindigul District.

7. Saroja,
D/o.Veerapathira Pillai,
Kalathu Veedu,
M.Ammapatty,
Dindigul District.

8. M.Saroja,
W/o.Late.Murugesan,
M.Ammapatty (PO),
Reddiyarsathiram,
Dindigul District.

9. M.Sundaramoorthy,
S/o.Late.Murugesan,
M.Ammapatty (PO),
Reddiyarsathiram,
Dindigul District.

10. M.Manikandan,
S/o.Late.Murugesan,
M.Ammapatty (PO),
Reddiyarsathiram,
Dindigul District.

11. G.Magudeeswari,
W/o.S.Gurumoorthy,
Kanapadi (PO),
Vadamadurai,
Dindigul District.

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12.M.Kalaiselvi,
W/o.S.Manikandan,
West Street,
Pothannoor (PO),
Paramathi Velur,
Namakkal District. ...Petitioner/Review Applicants

Vs.

1.Thangammal (Died)

2. Vairavalingam,
S/o.Late.Rajalingam,
Ammapatty,
Reddiarchatram,
Dindigul Taluk,
Dindigul District.

3. Rajasekar,
S/o.Late.Vairavalingam,
Ammapatty,
Reddiarchatram,
Dindigul Taluk,
Dindigul District.

4. Sivabalan,
S/o.Late.Vairvalingam,
Ammapatty,
Reddiarchatram,
Dindigul Taluk,
Dindigul District. ... Respondents/Respondents

(Memo dated 27.04.2026 in USR.No.16747 is recorded as R1 died and R2, who is already on record, is recorded as the sole LR of the deceased R1 vide Court order dated 29.04.2026 made in CMP(MD)No.1704 of 2026 in Rev.Aplc(MD)SR.No. 109755)

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PRAYER: Civil Miscellaneous Petition is filed under Section 5 of the Limitation Act, to condone the delay of 54 days in filing the review application against the order dated 26.06.2025 made in S.A(MD)No.66 of 2013 on the file of this Court.

For Petitioners : Ms.M.Sangeetha
R1 : Died
For R2 to R4 : Mr.PT.S.Narendravasan

ORDER

This Civil Miscellaneous Petition is filed by the petitioners to condone the delay of 54 days in filing the Review Application against the order dated 26.06.2025 in S.A(MD)No.66 of 2013.

2.The petitioners have stated reasons in the accompanying affidavit filed along with the Civil Miscellaneous Petition as follows:

The petitioner has filed a second appeal in S.A(MD)No.66 of 2013 before this Court against the judgment and decree made in A.S.No.33 of 2011 on the file of the Principal District Court, Dindigul. Along with the second appeal, the petitioner has filed a petition in C.M.P(MD)No.13436 of 2024 to receive additional documents of sale deed stood in the name of Muthuvel Pillai. The suit property originally belonged to Muthuvel Pillai

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and he had given the property to his daughter Meenammal as sridhana at the time of her marriage with one Rajalingam. To prove that the property belonged to Rajalingam, the petitioner has produced a document as additional document. The said petition was dismissed by this Court on 26.06.2025 along with the second appeal on the ground that the petitioner has not stated the reason as to why the petitioner has not produced the said document during the suit as well as the first appeal proceedings. There is no discussion regarding the document in the judgment. So the petitioner intends to prefer a review. The petitioner was unable to meet his counsel to prefer a review application against the judgment due to his ailment, as he has been taking regular treatment. Hence, there is a delay of 54 days in filing the present review petition. Hence, the delay may be condoned.

3.The respondents filed a counter and objected to the petition and stated as follows:

The petitioner has fairly submitted at the time of arguments of the second appeal that the petitioners are entitled to a 1/8 share, as their vendor Meenammal derived only 1/8 share. This Court elaborately discussed all points raised by the petitioners and dismissed the appeal on 26.06.2025. A mere reading of grounds B and C of the review petition, the order passed

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by this Court cannot be termed as error apparent on the face of record. If the petitioners are aggrieved by the same, they have to challenge the order before the Apex Court. The review application itself is not maintainable, hence, the petition is liable to be dismissed.

4.The learned counsel for the petitioner has submitted that the petitioners filed the suit for partition of the suit property as it belonged to Muthuvel Pillai, who gave the same to his daughter Meenammal as marriage sridhana at the time of her marriage with Rajalingam Pillai. The Courts below held that the suit property was the ancestral property of Rajalingam Pillai and not the property of Muthuvel Pillai. So, the petitioners filed the petition in C.M.P(MD)No.13436 of 2024 along with deeds dated 18.09.1929, 10.10.1929 and 17.10.2019, which are continuation of sale deed Ex.A11, dated 17.09.2019. This Court has not considered the petition and dismissed it along with the appeal on the grounds that there was no sufficient reason for non production of additional documents at the time of suit and first appeal. So, the petitioner intended to prefer review, in the meanwhile, he suffered from ill-health and he continued treatment, so there is a delay of 54 days in filing the present review petition. Hence, the delay may be condoned.

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5.Per contra, the learned counsel for the respondent has vehemently contended that the petitioner filed this petition only to drag the proceedings. The alleged documents were elaborately discussed by this Court vide paragraph No.26 of the judgment passed in the second appeal. The grounds B and C of the review petition do not show any error in the order on the face of record. The petitioners have to challenge the same before the Hon'ble Supreme Court by way of Special Leave Petition, instead, the petitioner has filed this review petition along with delay condonation. In a delay condonation petition filed along with a review petition, if the grounds for review are not made out, the delay in filing the review need not be considered. The reason for the delay is also not convincing. Therefore, the petition may be dismissed.

6.Heard both sides and perused the records in this Civil Miscellaneous Petition.

7.The petitioners mainly contended that this Court has not considered the additional documents filed in C.M.P(MD)No.13436 of 2024. The respondents strongly objected to the petition stating that this Court has

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elaborately discussed and rightly dismissed the petition, so the petitioners cannot seek any further remedy before this Court by way of a review.

8.On hearing both sides, it is clear that both the petitioners and the respondents made rival claims over the suit property before the trial Court in O.S.No.267 of 2004 and also before first Appellate Court in A.S.No.33 of 2011. It is the specific case of the petitioners that the suit property originally belonged to one Muthuvel Pillai and he gave the property to his daughter during her marriage with Rajalingam as sridhana property. The respondents' case is that the property belonged to Rajalingam. Both the Courts below arrived at a conclusion that the suit property is ancestral property of Rajalingam Pillai in view of Ex.A.3 and Ex.A.4 and the same was upheld by this Court in the second appeal in S.A(MD)No.66 of 2013. The petitioners have filed additional deeds to be received as additional documents in the second appeal along with petition. That petition was dismissed.

9.The petitioners' main contention is that this Court has not discussed those documents and so they want to review the order. A perusal of grounds B and C shows that this Court has discussed the documents. Whereas the respondents argued that this Court elaborately discussed about those

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documents in paragraph No.26. From perusal of the judgment passed by this Court in S.A(MD)No.66 of 2013, the discussion of this Court in paragraph No.26 as follows:

> *"26.The plaintiffs have sought for admission of additional documents which are stood in the name of Muthuvel Pillai. Those documents of the year 1929. There are no valid reasons stated by the plaintiffs why they have not produced these documents during the suit proceedings and the first appeal proceedings. This Court had already held that there is nothing on record about what happened from 1929 till the marriage of Meeammal with Rajalingam Pillai. There was no material to show the conveyance of the suit property as sridhana. Moreover, the 1st plaintiff, Arayee Ammal took stand as the ancestral property of Rajalingam Pillai in the earlier suit for redemption in O.S.No.1404 of 1984, as seen from Ex.B.16. Such recital of ancestral property was specifically described in Ex.A.3 and Ex.A.4 by the very same Meenammal and Thangammal. Therefore, mere filing of additional document to show a different stand shifting title to Muthuvel Pillai will not serve any purpose as the Ex.A.3 and Ex.A.4 are more than 30 years old documents and also the plaintiffs side already took stand that the suit property is ancestral property of*

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Rajalingam Pillai, hence, they could not take U turn against their own pleadings and recitals of Ex.A.3 and Ex.A.4. Therefore, the documents now sought to be received at this second appeal stage and also in the absence of acceptable reasons, are not admitted. The said petition is liable to be dismissed."

10. The petitioners' pleaded that the additional documents are continuation sale deeds, dated 17.09.1929 under Ex.A.11. This Court in the judgment of the second appeal held that there is nothing on record to show what happened from 1929 till the marriage of Meenammal with Rajalingam Pillai and also noted that the 1st plaintiff Arayee Ammal took a stand that the suit property is ancestral property of Rajalingam as mentioned Ex.A.3 and Ex.A.4 and thereby, this Court held that mere filing of additional documents to show the property belonged to Muthuvel Pillai would not serve any purpose. Therefore, this Court elaborately discussed about the additional documents. So, if the petitioners are aggrieved by the judgment of this Court, they have to approach the Apex Court, as rightly submitted by the counsel for respondents. There is no apparent error for reviewing the impugned judgment itself.

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11. The Division Bench of Bombay High Court in the case of **Nivruti G.Ahire Vs. The State of Maharashtra and Others** reported in **2007 SCC Online Bom 492**, while dealing with an identical issue, the Division Bench of Bombay High Court has categorically held that if the main application for review is itself not maintainable in law, the question of condonation of delay in filing such an application would not arise at all. This was followed by the Bombay Court in a recent judgment rendered in the case of **JSW Steel Coated Products Ltd. & Anr. /v/ Shri Amarlal** reported in **2025 SCC Online Bom 2947.**

12. It is settled position that if the pleas urged in review petition are a reiteration of grounds urged during hearing of appeals, such review petitions may be held as not maintainable. The Division Bench of this Court in **Review Application No.137 of 2014 in Siril Bernard /v/ The Registrar of University of Madras** held in paragraph Nos.18, 23 and 24 as follows:

> *"18.It is to be relevantly pointed out that the power of Review is not an inherent power and must be conferred by law either expressly or by necessary implication. Moreover, in the decision of the Hon'ble Supreme Court in Sardar Narender*

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Singh V. IV Additional District Judge, AIR 1994 Supreme Court 1245, it is held that 'review petition filed by tenant after a gap of more than four years is not maintainable'. Also that, where all the pleas urged in review petition were reiteration of grounds urged during hearing of appeals, review petitions may held as not maintainable, as per decision of the Hon'ble Supreme Court in Rajinder Singh V. State of Haryana and others, (2005) 12 Supreme Court Cases 322. That apart, where the Petitioner had not been acting bona fide, delay in filing review would not be condoned, as opined by this Court.

23.Besides the above, this Court aptly points out the decision of the Hon'ble Supreme Court in Parsion Devi and others V. Sumitri Devi and others, (1997) 8 Supreme Court Cases 715, at special page 716, whereby and whereunder, it is observed and held as follows:

Under Order 47, Rule 1 CPC a judgment may be open to review inter alia if there is a mistake or an error apparent on the face of the record. An error which is not self-evidence and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of the record justifying the court to exercise its power of review under Order 47, Rule 1 CPC. In

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exercise of the jurisdiction under Order 47, Rule 1 CPC it is not permissible for an erroneous decision to be reheard and corrected. There is a clear distinction between an erroneous decision and an error apparent on the face of the record. While the first can be corrected by the higher forum, the latter only can be corrected by exercise of the review jurisdiction. A review petition has a limited purpose and cannot be allowed to be an appeal in disguise.

24.On a careful consideration of the Applicant/Appellant's contentions and also this Court, taking note of the entire conspectus of the attendant facts and circumstances of the present case in an integral fashion, comes to an irresistible conclusion that the Applicant/ Appellant has not made out a case for 'Review' to the subjective satisfaction of this Court and further, this Court is of the considered view that there is no apparent error on the face of record in the Judgment dated 28.06.2012 in W.A.No.1796 of 2011. In reality, the Applicant/ Appellant has projected the present Review Application in the guise of an Appeal. Moreover, if the Applicant/Appellant is aggrieved by the Judgment dated 28.06.2012 in W.A.No.1796 of 2011 passed by this Court, which in his understanding has not been correctly decided as

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per Law or on facts or erroneously decided, such an argument/plea can be agitated/raised in an Appeal before the Superior Forum, but not in a Review Application, in the considered opinion of this Court. That apart, reappraisal of the entire facts or materials on record for finding the error would certainly, in the considered opinion of this Court, amount to exercise of 'Appellate Jurisdiction' which is certainly impermissible. Viewing it from any angle, the Review Application fails."

13. In the case on hand, from careful consideration of the contentinous of learned counsel for the petitioners' and taking note of the facts and circumstances of the present case, this Court comes to a conclusion that the petitioners have not made out a case for 'Review' to the subjective satisfaction of this Court. This Court further holds that there is no error apparent error on the face of the record in the judgment dated 26.06.2025 made in S.A.No.66 of 2013 and C.M.P(MD)No.13436 of 2024. On perusal of the grounds of review, the petitioners have stated grounds in the guise of an appeal and prayed as follows:

"It is therefore prayed that this Hon'ble Court may be pleased to set aside the order passed in

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SA(MD)No.66 of 2013 dated 26.06.2025 by allowing the review application."

14. Therefore, this Court holds that if the petitioners are aggrieved by the impugned Judgment of this Court, which, in their understanding, has not been correctly decided as per Law or on facts or has been erroneously decided, such plea can be agitated or raised in an Appeal before the Superior Forum, but not in a Review Application. Therefore, as rightly submitted by the learned counsel for the respondents, the petitioners have filed this present petition with the intention to harass the respondents, and the said submission cannot be brushed aside as there is no reason.

15. Though the reason for delay in filing the review petition is to be considered, in view of the above settled position, while considering the delay in filing the review application, the maintainability of such review has also to be taken into account. In this case, viewing it from any angle, the Review Application itself is not maintainable. Therefore, this Court is of the considered view that the present application for condonation of delay in filing the review petition is liable to be dismissed.

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16. In the result, this Civil Miscellaneous Petition is dismissed. Consequently, the Review Application is rejected at the SR stage itself. No costs.

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NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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Pre - Delivery Order made in
C.M.P(MD)No.1704 of 2026
in
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