

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.02.2018

CORAM

THE HON'BLE MR. JUSTICE R.SUBRAMANIAN

Review Application No.43 of 2018

M.Thanasekaran Petitioner

vs.

1. Mayilambal
2. Kalpana
3. Kalaiselvi
4. Muthuswaminathan (deceased)
Rep. By his L.R.s
5. Anbu Nilavan
6. Arul Thiru Murugan Respondents

Review Application has been filed under Order XLVII Rule 1 r/w
Section 114 of the Civil Procedure Code, against the order dated
03.01.2017 passed in AS. No.630 of 2007 on the file of the High Court.

For Review Petitioner : Mr.P.V.Balasubramaniam
for Mr.BFS Legal

For Respondents 1 to 3 : Mr.S.Natarajan

J U D G M E N T

This Review Application has been filed for seeking review of the
judgment 03.01.2017 passed in AS. No.630 of 2007.

2. I have heard the learned counsel for the review petitioner. The attempt that is now being made is to re-argue the First Appeal in the form of Review. The claim of the second defendant before the trial Court with reference to the suit, second item of the property was that the land belongs to the Sri Sivaloganatha Swamy Devasthanam and it was taken on lease by late Muthukrishnan and it was the the 2nd defendant, who had put up the construction in the property at his own cost. The said claim was rejected by the trial Court on the ground that the 2nd defendant had not entered the witness box to prove his case, and it was also confirmed by me.

3. The learned counsel for the Review petitioner would claim now that the plaintiffs have not established that the construction was put up by the said Muthukrishnan, out of his own funds. That is not the way the claim was projected at the time of trial or at the time of arguing the First Appeal. The change in counsel cannot provide a ground for review. I do not see any error on the face of the record and hence the review petition is dismissed. No costs.

27.02.2018

jv

Index: Yes/No
Internet: Yes/No
Speaking order/Non Speaking order

To

The Additional District Judge,
Pondicherry at Karaikal.



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R.SUBRAMANIAN,J.

Jv



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