



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **24.11.2020**

CORAM:

THE HONOURABLE MR.JUSTICE M. GOVINDARAJ

Review Application (MD).No.47 of 2020

and

C.M.P. (MD).No.3995 of 2020

in SA(MD)No.445 of 2013

WEB COPY

- 1.Padmavathy
- 2.V.Govindaraj
- 3.V.Ganesan
- 4.V.Usharani
- 5.V.Ramesh

[cause-title accepted vide order of this Court
dated 26.06.2018 made in C.M.P. (MD)No.12269 of 2016
in Rev.Applc. (MD)SR.No.31457 of 2016]

: Petitioners

Vs.

- 1.Rajalakshmi (died)
- 2.Thiru.Sanjeevi
- 3.Thiru.Dheshinamoorthy
- 4.Thiru.R.S.Pradhaban
- 5.Thiru.R.S.Durai
- 6.Thiru.R.S.Rengaraj
- 7.Tmt.Chandra
- 8.Tmt.Rameesha Beevi
- 9.Tmt.Vijayalakshmi
- 10.Tmt.Rajammal
- 11.Tmt.Kalaiselvi,
W/o.Vellaisamy
- 12.Tmt.Kalaiselvi,
W/o.Saravanan
- 13.Tmt.Rukmani
- 14.Tmt.Kalaiselvi,
W/o.Saravanan
- 15.Tmt.Meenambal
- 16.Tmt.Santhakumari
- 17.Tmt.Vasuki
- 18.Tmt.Muthulakshmi
- 19.Tmt.Lakshmi
- 20.Thiru.Bose
- 21.Tmt.Eswari
- 22.Thiru.Robert
- 23.Tmt.Selvi
- 24.Tmt.Kaladevi
- 25.Tmt.Kala @ Kalaiselvi
- 26.Tmt.Mangaiyarkarsi
- 27.Thiru.Rajendran
- 28.Thiru.Veerappan



- 29.Thiru.Rengaraj
- 30.Thiru.Bosangu
- 31.Thiru.Chandran
- 32.Tmt.Sowrammal
- 33.Thiru.Ammasai
- 34.Thiru.Abdul Razak
- 35.Thiru.Muthammal
- 36.Thiru.Sheik Abdulla
- 37.Thiru.Jinnah
- 38.Thiru.Arunachalam
- 39.Tmt.Ammami Ammal
- 40.Tmt.Vasantha
- 41.Thiru.Ramesh
- 42.Thiru.Rahmathunnisha
- 43.Thiru.Omanthiran
- 44.Thiru.Balasubramanian
- 45.Thiru.Abbas
- 46.Thiru.Chokkalingam
- 47.Thiru.Thiyagarajan
- 48.Thiru.Bakkurudeen
- 49.Tmt.Poongothai
- 50.Tmt.Lakshmi
- 51.Thiru.Arumugam
- 52.R.Kumar
- 53.S.Santhi
- 54.S.Suganya
- 55.S.Nagaraj
- 56.R.Ravi
- 57.R.Shanmugam
- 58.R.Rani
- 59.R.Prema
- 60.R.Balu

[Respondents 2 to 51 were given up in
the above Review Application]

: Respondents

Prayer: Review Application is filed under Section 114 r/w. Order 47 Rule 1 of the Code of Civil Procedure, praying to review the judgment dated 21.06.2016 passed in S.A.(MD)No.445 of 2013.

Prayer in SA(MD)No.445 of 2013:

Second Appeal filed under Section 100 of the Code of Civil Procedure, against the Judgement and Decree dated 30.11.2012 made in A.S.No.33 of 2011 on the file of the Additional District Court, Pudukkottai confirming the judgment and decree dated 11.10.2007 made in O.S.No.182 of 2001 on the file of the Subordinate Judge, Pudukkottai.

For Review Applicants : Mr.P.Thiagarajan



ORDER

The present Review Application has been preferred against the judgment and finding of this Court in S.A.(MD)No.445 of 2013 that there is no pleading with regard to the partition.

2. The learned counsel appearing for the Review Applicants would contend that Ex.A.5, which is a registered partition deed of the year 1917, has been produced before the Court, marked as an exhibit and evidence has been adduced by the parties to show that it is a clear proof that the property mentioned in the partition deed (Ex.A.5) is the joint family property enjoyed by the parties to the suit as legal heirs of their ancestors. Therefore, the finding by this Court in S.A.(MD)No.445 of 2013 is error apparent on the face of the record.

3. I have perused the judgment passed in the above Second Appeal and also the averments made in the plaint.

4. There is absolutely no pleading with regard to the nature of the property, as joint family property, the factum of partition, and inheritance through the partition deed and details with regard to joint possession of the property. Without any pleadings or iota of evidence with respect to joint possession, the review applicants herein would try to assert that third item of property found in the partition deed is the suit property and it belongs to joint family. Therefore, the factual finding that there is no pleading with regard to the nature of property as a joint family property, the partition deed marked as Ex.A.5 and that it is liable for partition, need not be interfered with. Omnibus averments will not help the litigant and Ex.A.5, which was produced at the time of trial and evidence adduced on the basis of the same, will not be of any use without any specific pleading. Therefore, I do not find any error apparent on the face of the judgment.

5. It is well settled that review is not an appeal. The scope of review is very limited. Whereas, the learned counsel for the review applicants would re-argue the entire case on merits. Since I do not find any sufficient reasons or error apparent on the face of the judgment, I am not inclined to interfere with the judgment dated 21.06.2016, passed in S.A.(MD)No.445 of 2013. The Review Application is, accordingly, dismissed. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

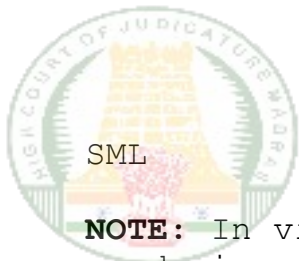
Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

+1cc to Mr.Mr.P.Thiagarajan, Advocate Sr.No.22749.

Order made in
Review Application (MD).No.47 of 2020
24.11.2020

VB (04.12.2020) 4P 2C